

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 374*

Short Title: Mental Health System Reform. (Public)

Sponsors: Senators Metcalf; Allran, Carter, Dannelly, Foxx, Lucas, Martin of Guilford, Purcell, and Weinstein.

Referred to: Children & Human Resources.

March 8, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PHASE-IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM
3 REFORM AT THE STATE AND LOCAL LEVEL.

4 Whereas, the 1999 General Assembly, Regular Session 2000, established the
5 Joint Legislative Oversight Committee ("Committee") on Mental Health,
6 Developmental Disabilities, and Substance Abuse Services; and

7 Whereas, the Committee was directed to develop a Plan for Mental Health
8 System Reform; and

9 Whereas, the General Assembly expressed the intent that the Plan be fully
10 implemented not later than July 1, 2005; and

11 Whereas, the General Assembly directed the Committee to "Report to the
12 2001 General Assembly upon its convening the changes that should be made to the
13 governance, structure, and financing of the State's mental health system at the State and
14 local levels"; and

15 Whereas, the Committee reviewed the governance, structure, and financing of
16 the current mental health system and reported its findings and recommendations to the
17 2001 General Assembly for legislative action; Now, therefore,
18 The General Assembly of North Carolina enacts:

19
20 **PART 1. MENTAL HEALTH SYSTEM REFORM**

21
22 **SECTION 1.1.** G.S. 122C-2 reads as rewritten:

23 **"§ 122C-2. Policy.**

24 The policy of the State is to assist individuals with needs for mental illness, health,
25 developmental disabilities, and substance abuse ~~problems~~ services in ways consistent
26 with the dignity, rights, and responsibilities of all North Carolina citizens. Within
27 available resources it is the obligation of State and local government to provide mental

1 health, developmental disabilities, and substance abuse services to eliminate, reduce, or
2 prevent the disabling effects of mental illness, developmental disabilities, and substance
3 abuse through a service-delivery system designed to meet the needs of clients in the
4 least restrictive available setting, if the least restrictive setting is therapeutically most
5 appropriate, and to maximize their quality of life. It is further the obligation of the State
6 and local government to provide community-based services when such services are is
7 appropriate, unopposed by the affected individuals, and can be reasonably
8 accommodated within available resources and taking into account the needs of other
9 persons for mental health, developmental disabilities, and substance abuse services.

10 State and local governments shall develop and maintain a unified system of services
11 centered in area-local government programs. The public service system will strive to
12 provide a continuum of services for clients while considering the availability of services
13 in the private sector. State and local government shall ensure within available resources
14 that the following core services are available:

- 15 (1) Screening, assessment, and referral.
- 16 (2) Emergency services.
- 17 (3) Case support.
- 18 (4) Prevention, consultation, and education.

19 The State shall provide within available resources services to targeted populations,
20 except that the State and counties shall provide matching funds for entitlement program
21 services as required by law.

22 The furnishing of services to implement the policy of this section requires the
23 cooperation and financial assistance of counties, the State, and the federal government."

24 **SECTION 1.2.(a)** G.S. 122C-3 is amended by adding the following new
25 subdivisions in alphabetical order to read:

- 26 "(1) 'Administering county' means a county that operates a single-county
27 program or the county that is responsible for the (i) budget and fiscal
28 control, and (ii) the appointment of a program director, for a multi-
29 county program.
- 30 (2) 'Core services' are those services that are basic, essential, and
31 universally available to all individuals.
- 32 (3) 'Local program' means a program certified by the Secretary to provide
33 mental health, developmental disabilities, and substance abuse
34 services.
- 35 (4) 'Local program board' or 'program board' means the local program
36 board established pursuant to Article 3B of this Chapter.
- 37 (5) 'Multicounty program' means a local program that serves a multi-
38 county service area.
- 39 (6) 'Program director' means the individual employed pursuant to Article
40 3B of this Chapter to administer the local program.
- 41 (7) 'Single-county program' means a local program operated as a
42 department of the county and that serves a single-county service area.

1 (8) 'State' or 'Local' Ombudsman means the individual carrying out the
2 duties of the State or Local Quality of Care Ombudsman Office in
3 accordance with Article 1A of this Chapter.

4 (9) 'State plan' means the State Plan for Mental Health, Developmental
5 Disabilities, and Substance Abuse Services.

6 (10) 'Targeted population' means those individuals who are given service
7 priority under the State Plan."

8 **SECTION 1.2.(b)** G.S. 122C-3(14) is amended by adding a new
9 sub-subdivision to read:

10 "(14) 'Facility' means any person at one location whose primary purpose is
11 to provide services for the care, treatment, habilitation, or
12 rehabilitation of the mentally ill, the developmentally disabled, or
13 substance abusers, and includes:

14 ...

15 i. A 'local program facility', which is a facility that is operated by
16 or under contract with an administering county. A facility that is
17 providing services under contract with the administering county
18 is a local program facility for purposes of the contracted
19 services only. Local program facilities may also be licensable
20 facilities in accordance with Article 2 of this Chapter. A State
21 facility is not a local program facility."

22 **SECTION 1.2.(c)** G.S. 122C-3(14)g. reads as rewritten:

23 "g. A '24-hour facility', which is a facility that provides a structured
24 living environment and services for a period of 24 consecutive
25 hours or more and includes hospitals that are facilities under
26 this Chapter; ~~and~~".

27 **SECTION 1.2.(d)** G.S. 122C-3(14)h. reads as rewritten:

28 "h. A Veterans Administration facility or part thereof that provides
29 services for the care, treatment, habilitation, or rehabilitation of
30 the mentally ill, the developmentally disabled, or substance
31 ~~abusers-abusers~~; and".

32 **SECTION 1.3.(a)** Article 1 of Chapter 122C of the General Statutes is
33 amended by adding the following new section to read:

34 **§ 122C-6. Scope of Chapter.**

35 Except for Articles 1A and 3B of this Chapter, this Chapter applies to counties that
36 provide mental health, developmental disabilities, and substance abuse services through
37 an area authority. Except for Article 4 of this Chapter, this Chapter applies to counties
38 that provide mental health, developmental disabilities, and substance abuse services
39 through a local program. Whenever the term 'area authority' or 'area program' is used in
40 this Chapter other than in Article 4, the term shall be construed to include the term 'local
41 program' as defined in this Chapter. Whenever the term 'area facility' is used in this
42 Chapter other than in Article 4, the term shall be construed to include the term 'local
43 program facility' as defined in G.S. 122C-3(14)i."

44 **SECTION 1.3.(b)** G.S. 122C-64 reads as rewritten:

1 **"§ 122C-64. Human rights committees.**

2 Human rights committees responsible for protecting the rights of clients shall be
3 established at each State facility and may be established for area ~~authorities~~authorities
4 and local programs. The Commission shall adopt rules for the establishment of
5 committees. These rules shall include the composition and duties of the committees and
6 procedures for appointment of the members by the Secretary for State ~~facilities~~and
7 facilities, by the area board for area ~~authorities~~authorities, and by the administering
8 county for local programs."

9 **SECTION 1.4.** Article 4 of Chapter 122C of the General Statutes is
10 amended by adding the following new section to read:

11 **"§ 122C-102. Scope.**

12 Except as otherwise explicitly provided in this Chapter, this Article does not apply to
13 counties that provide mental health, developmental disabilities, and substance abuse
14 services through a local program."

15 **SECTION 1.5.** Chapter 122C of the General Statutes is amended by adding
16 the following new Article to read:

17 "Article 3B.

18 "Organization and System for Delivery of
19 Mental Health, Developmental Disabilities, and
20 Substance Abuse Services.

21 "Part 1.

22 "Policy.

23 **"§ 122C-83. Scope and policy.**

24 (a) This Article applies to local programs certified by the Secretary to provide
25 mental health, developmental disabilities, and substance abuse services.

26 (b) Within the public system of mental health, developmental disabilities, and
27 substance abuse services, there are both local program facilities and State facilities. A
28 local program is responsible for and is the locus of coordination among public services
29 for clients of its service area. To assure the most appropriate and efficient care of clients
30 within the publicly supported service system, local programs are encouraged to develop
31 and secure approval for a single portal of entry and exit policy for their service areas for
32 mental health, and substance abuse services. Local programs shall develop and secure
33 approval for a single portal of entry and exit policy for public and private services for
34 individuals with developmental disabilities.

35 "Part 2.

36 "Administration.

37 **"§ 122C-84. State and local system administration.**

38 The Secretary shall administer and enforce the provisions of this Chapter and the
39 rules of the Commission and shall operate State facilities. A program director shall
40 administer the local program and shall enforce applicable State law and rules and
41 county ordinances. The Secretary in cooperation with program directors and State
42 facility directors shall provide for the coordination of services between local programs
43 and State facilities.

44 **"§ 122C-85. Powers and duties of the Secretary.**

- 1 (a) The Secretary shall do all of the following:
- 2 (1) Develop a State Plan for mental health, developmental disabilities, and
3 substance abuse services.
- 4 (2) Enforce the provisions of this Chapter and the rules of the Commission
5 and the Secretary.
- 6 (3) Establish a process and criteria for the submission, review, and
7 approval or disapproval of business plans submitted by counties for the
8 provision of mental health, developmental disabilities, and substance
9 abuse services.
- 10 (4) Adopt rules specifying the content and format of business plans.
- 11 (5) Review business plans and upon approval of the business plan, certify
12 the submitting local program to provide mental health, developmental
13 disabilities, and substance abuse services.
- 14 (6) Establish comprehensive, cohesive oversight and monitoring
15 procedures and processes to ensure continuous compliance by local
16 programs and their contracted providers with State and federal policy,
17 law, and standards.
- 18 (7) Assist counties in the establishment and operation of community-based
19 programs within the local program service area.
- 20 (8) Operate State facilities and adopt rules pertaining to their operation.
- 21 (9) Promote a unified system of services for the citizens of this State by
22 coordinating services provided in State facilities and local program
23 facilities.
- 24 (10) Adopt rules governing the expenditure of all funds for mental health,
25 developmental disabilities, and substance abuse programs and services.
- 26 (11) Adopt rules to implement the appeal procedure authorized by G.S.
27 122C-100.16.
- 28 (12) Adopt rules for the establishment of single portal designation and
29 approve an area as a single portal area.
- 30 (13) Except as provided in G.S. 122C-26(4), adopt rules establishing
31 procedures for waiver of rules adopted by the Secretary under this
32 Chapter.
- 33 (14) Notify the clerks of superior court of changes in the designation of
34 State facility regions and of facilities designated under G.S. 122C-252.
- 35 (15) Promote public awareness and understanding of mental health, mental
36 illness, developmental disabilities, and substance abuse.
- 37 (16) Administer and enforce rules that are conditions of participation in
38 federal or State financial aid.
- 39 (17) Carry out G.S. 122C-361.
- 40 (18) Monitor the fiscal and administrative practices of local programs to
41 ensure that the programs are accountable to the State for the
42 management and use of federal and State funds allocated for mental
43 health, developmental disabilities, and substance abuse services. The
44 Secretary shall ensure maximum accountability by local programs for

- 1 rate-setting methodologies, reimbursement procedures, billing
2 procedures, provider contracting procedures, record keeping,
3 documentation, and other matters pertaining to financial management
4 and fiscal accountability. The Secretary shall further ensure that the
5 practices are consistent with professionally accepted accounting and
6 management principles.
- 7 (19) Provide technical assistance to counties in the development of local
8 program business plans and other matters, as requested by the county.
- 9 (20) Develop a methodology to be used for calculating county resources to
10 reflect cash and in-kind contributions of the county.
- 11 (21) Adopt rules establishing program evaluation and management of
12 mental health, developmental disabilities, and substance abuse
13 services.
- 14 (22) Adopt rules regarding the requirements of the federal government for
15 grants-in-aid for mental health, developmental disabilities, or
16 substance abuse programs which may be made available to local
17 programs or the State. This section shall be liberally construed in order
18 that the State and its citizens may benefit from the grants-in-aid.
- 19 (23) Adopt rules for determining minimally adequate services for purposes
20 of G.S. 122C-99 and G.S. 122C-100.
- 21 (b) The Secretary may do the following:
- 22 (1) Acquire by purchase or otherwise in the name of the Department
23 equipment, supplies, and other personal property necessary to carry out
24 the mental health, developmental disabilities, and substance abuse
25 programs.
- 26 (2) Sponsor training opportunities in the fields of mental health,
27 developmental disabilities, and substance abuse.
- 28 (3) Promote and conduct research in the fields of mental health,
29 developmental disabilities, and substance abuse.
- 30 (4) Provide technical assistance for the development and improvement of
31 mental health, developmental disabilities, and substance abuse
32 services.
- 33 (5) Receive donations of money, securities, equipment, supplies, or any
34 other personal property of any kind or description which shall be used
35 by the Secretary for the purpose of carrying out mental health,
36 developmental disabilities, and substance abuse programs. Any
37 donations shall be reported to the Office of State Budget, Planning,
38 and Management as determined by that office.
- 39 (6) Accept, allocate, and spend any federal funds for mental health,
40 developmental disabilities, and substance abuse activities that may be
41 made available to the State by the federal government. This Chapter
42 shall be liberally construed in order that the State and its citizens may
43 benefit fully from these funds. Any federal funds received shall be
44 deposited with the State Treasurer and shall be appropriated by the

1 General Assembly for the mental health, developmental disabilities, or
2 substance abuse purposes specified.

3 (7) Enter agreements authorized by G.S. 122C-346.

4 (8) Authorize funds for contracting with a person, firm, or corporation for
5 aid or assistance in locating, recruiting, or arranging employment of
6 health care professionals in any facility listed in G.S. 122C-100.28,
7 notwithstanding the provisions of G.S. 126-18.

8 (9) Contract with one or more private providers or other public service
9 agencies to serve clients of a local program and reallocate local
10 program funds to pay for services under the contract if the Secretary
11 finds all of the following:

12 a. The county refuses or has failed to provide the services to
13 clients within its service area in a manner that is at least
14 adequate.

15 b. Clients within the local program area will either not be served
16 or will suffer an unreasonable hardship if required to obtain the
17 services from another local program.

18 c. There is at least one private provider or public service agency
19 within the county's service area, or within reasonable proximity
20 to the service area, willing and able to provide services under
21 contract.

22 Before contracting with a private provider as authorized under this
23 subdivision, the Secretary shall provide written notification to the
24 county or counties administering the local program of the Secretary's
25 intent to contract and shall provide the county or counties an
26 opportunity to be heard.

27 (10) Contract with one or more private providers or other public service
28 agencies to serve clients from more than one local program and
29 reallocate the funds of the applicable local programs to pay for
30 services under the contract if the Secretary finds either that there is no
31 local program available to act as the administrative entity under
32 contract with the provider or that the administering local program
33 refuses or has failed to properly manage and administer the contract
34 with the contract provider and clients will either not be served or will
35 suffer unreasonable hardship if services are not provided under the
36 contract. Before contracting with a private provider as authorized
37 under this subdivision, the Secretary shall provide written notification
38 to the administering counties of the Secretary's intent to contract, and
39 shall provide the administering counties an opportunity to be heard.

40 (11) Require reports of client characteristics, staffing patterns, agency
41 policies or activities, services, or specific financial data of the local
42 program. The reports shall not identify individual clients of the local
43 program unless specifically required by State law or by federal law or

1 regulation or unless valid consent for the release has been given by the
2 client or legally responsible person.

3 (c) The Secretary shall conduct regularly scheduled monitoring and oversight of
4 local programs. Monitoring and oversight shall include compliance with the local
5 program business plan, core administrative functions, fiscal, and administrative
6 practices. Monitoring and oversight shall also address outcome measures, consumer
7 satisfaction, human rights and client rights complaints, and adherence to best practices.
8 The Secretary shall make findings and recommendations based on information and data
9 collected pursuant to this section and shall report these findings and recommendations
10 for improvement to the county commissioners of the administering county and the Local
11 Ombudsman Office.

12 **"§ 122C-86. Cooperation between Secretary and other agencies.**

13 (a) The Secretary shall cooperate with other State agencies to coordinate services
14 for the treatment and habilitation of individuals who are mentally ill, developmentally
15 disabled, or substance abusers. The Secretary shall also coordinate with these agencies
16 to provide public education to promote a better understanding of mental illness,
17 developmental disabilities, and substance abuse.

18 (b) The Secretary shall promote cooperation among local programs, State
19 facilities, and local agencies to facilitate the provision of services to individuals who are
20 mentally ill, developmentally disabled, or substance abusers.

21 (c) The Secretary shall cooperate with the State Board of Education and the
22 Department of Juvenile Justice and Delinquency Prevention in coordinating the
23 responsibilities of the Department of Health and Human Services, the State Board of
24 Education, the Department of Juvenile Justice and Delinquency Prevention, and the
25 Department of Public Instruction for adolescent mental health and substance abuse
26 programs. The Department of Health and Human Services, through its Division of
27 Mental Health, Developmental Disabilities, and Substance Abuse Services, in
28 cooperation with the Department of Juvenile Justice and Delinquency Prevention, shall
29 be responsible for intervention and treatment in nonschool-based programs. The State
30 Board of Education and the Department of Public Instruction, in consultation with the
31 Department of Juvenile Justice and Delinquency Prevention, shall have primary
32 responsibility for in-school education, identification, and intervention services,
33 including student assistance programs.

34 (d) The Secretary shall adopt rules to assure this coordination.

35 **"§ 122C-87. Powers and duties of the Commission.**

36 The Commission shall have authority as provided by this Chapter, Chapters 90 and
37 148 of the General Statutes, and by G.S. 143B-147.

38 **"§ 122C-88. Powers and duties of counties.**

39 (a) A county shall provide mental health, developmental disabilities, and
40 substance abuse services.

41 (b) A county shall, in accordance with Article 3B of this Chapter, operate a
42 single-county program or participate in the administration of a multicounty program. To
43 the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-
44 77(a) control.

1 (c) The governing unit of a local program is the board of county commissioners
2 of the administering county. The governing unit of a local program may exercise all
3 powers, duties, functions, rights, privileges, or immunities conferred on the local
4 program.

5 (d) Local program administration and services must comply with applicable
6 federal law and State law, policy, standards, and rules.

7 (e) A county may operate a local program as a single county program or,
8 pursuant to Article 20 of Chapter 160A of the General Statutes, may enter into an
9 interlocal agreement with one or more other counties for the administration of a multi-
10 county program. An interlocal agreement that provides for administration of a multi-
11 county program shall designate a single administering county that shall:

12 (1) Adopt and administer the local program budget in accordance with
13 Chapter 159 of the General Statutes.

14 (2) Establish and maintain the accounting system, control expenditures,
15 manage cash and other assets, and prepare financial reports for the
16 local program in accordance with Chapter 159 of the General Statutes.

17 (3) Appoint a program director to carry out the provisions of G.S. 122C-
18 95 and other applicable provisions of this Chapter.

19 The interlocal agreement may provide for the administering county to carry out other
20 functions necessary to the administration and operation of the multicounty program.

21 (f) Every county, either singly or jointly with one or more other counties, shall
22 develop a business plan for the management and delivery of mental health,
23 developmental disabilities, and substance abuse services through a local program. All
24 business plans shall designate an administering county. The business plan shall comply
25 with the requirements of G.S. 122C-89. A business plan shall provide detailed
26 information on how the county will meet State standards, laws, and rules for ensuring
27 quality mental health, developmental disabilities, and substance abuse services,
28 including outcome measures for evaluating local program effectiveness. The business
29 plan shall be in effect for at least three State fiscal years. The administering county shall
30 submit the single-county or multicounty local program business plan to the Secretary for
31 review and approval. If the Secretary finds that the business plan complies with State
32 law and standards adopted by the Secretary, the Secretary shall certify the local
33 program. An administering county may amend the business plan subject to the approval
34 of the Secretary. Amendments to the business plan for a multicounty program shall be
35 subject to the approval of the participating counties.

36 (g) In addition to the powers and duties authorized in subsections (a) and (b) of
37 this section, an administering county shall:

38 (1) Ensure the provision of services to clients of the program service area,
39 including clients committed to the custody of the Department of
40 Juvenile Justice and Delinquency Prevention.

41 (2) Coordinate with the Secretary, the Department of Juvenile Justice and
42 Delinquency Prevention, and local education agencies within the local
43 program service area, the provision of services to clients through local
44 program and State facilities.

1 (3) Assure that local program services, provided directly or under contract,
2 meet the requirements of applicable State and federal law, and within
3 available resources, are of the highest quality possible.

4 (4) Comply with federal requirements as a condition for the receipt of
5 federal grants.

6 "**§ 122C-88A. Appropriation and allocation of funds by administering counties**
7 **and cities.**

8 (a) Counties shall and cities may appropriate funds for the support of programs
9 that serve the local program area whether the programs are physically located within a
10 single county or whether any facility housing a program is owned and operated by the
11 city or county. Counties shall and cities may make appropriations for the purposes of
12 this Chapter and may allocate for these purposes other revenues not restricted by law,
13 and counties may fund them by levy of property taxes pursuant to G.S. 153A-
14 149(c)(22).

15 (b) Except as otherwise provided in this subsection, counties shall not reduce
16 county appropriations and expenditures for current operations and ongoing programs
17 and services of a local program because of the availability of State-allocated funds, fees,
18 capitation amounts, or fund balance to the local program. Counties may reduce county
19 appropriations by the amount previously appropriated by the county for one-time,
20 nonrecurring special needs of the local program.

21 (c) The board or boards of county commissioners that establish the local program
22 may allocate funds not otherwise restricted by law, in addition to the funds allocated for
23 the operation of the local program, for the purpose of paying legal defense, judgments,
24 and settlements as authorized under G.S. 160A-167.

25 "**§ 122C-89. County business plan required; content; process; certification.**

26 (a) Every county shall develop a business plan for the management and delivery
27 of mental health, developmental disabilities, and substance abuse services through local
28 programs. Counties administering and providing services through a multicounty
29 program shall jointly develop one business plan for the multicounty program.
30 Certification of the local program shall be based on sufficiency of the business plan for
31 that local program, as determined by the Secretary. Business plans shall include the
32 following:

33 (1) Description of how the following core administrative functions will be
34 carried out:

35 a. Planning. -- Local services plans that identify service gaps and
36 methods for filling the gaps, ensure the availability of an array
37 of services based on consumer needs, provision of core
38 services, and prescribing the efficient and effective use of all
39 funds for targeted services. Local planning should be an open
40 process involving key stakeholders in developing the plan.

41 b. Provider network development. -- Ensuring available and
42 qualified providers to deliver services based on the local plan.
43 Development of new providers and monitoring provider
44 performance and service outcomes. Provider network

- 1 development shall address consumer choice and fair
2 competition.
- 3 c. Service management. -- Management of all services on the
4 continuum, including use of State hospitals/facilities bed days,
5 utilization management, and quality management. If services
6 are provided directly by the local program, then the plan shall
7 indicate what efforts will be made to ensure consumer choice
8 and fair competition in the marketplace.
- 9 d. Services management. -- Managing multiple services provided,
10 including necessary interventions to assure the appropriate level
11 and intensity of services are provided.
- 12 e. Financial management and accountability. -- Carrying out
13 business functions in an efficient and effective manner, cost-
14 sharing, and managing resources dedicated to the public system.
- 15 f. Service monitoring and oversight. -- Assuring that services
16 provided to consumers and families meet State outcome
17 standards, and ensure quality performance by providers in the
18 network.
- 19 g. Evaluation. -- Self-evaluation based on statewide outcome
20 standards, and participation in independent evaluation studies.
- 21 h. Collaboration. -- Collaborating with other local service systems
22 in ensuring access and coordination of services at the local
23 level. Collaborating with other local programs and the State in
24 planning and delivery of services.
- 25 i. Access. -- Assuring reasonable access to core and targeted
26 services. As used in this paragraph, 'reasonable access' means
27 that there shall be not less than what is currently available in the
28 service delivery system.
- 29 (2) Description of how the following will be addressed:
- 30 a. Reasonable administrative costs, and costs or savings
31 anticipated from consolidation.
- 32 b. Proposed reinvestment of savings toward direct services.
- 33 c. Minimum population base of 200,000 or a minimum of five
34 counties in the service area of the multicounty program.
- 35 d. Based on rules adopted by the Secretary, method for calculating
36 county resources to reflect cash and in-kind contributions of the
37 county.
- 38 e. Financial accountability and oversight by administering county
39 in accordance with State and federal law.
- 40 f. The composition and appointment of the local program board.
- 41 g. The population base of the counties to be served by the multi-
42 county local program.

- 1 h. Allocation of liability in multicounty programs, including the
2 purchase of liability insurance by one or more of the
3 participating counties.
4 i. Procedures for the informal resolution of disputes prior to filing
5 of an appeal with the State Appeals Panel under G.S. 122C-
6 100.17, et seq.
7 j. Use of local funds for the alteration, improvement, and
8 rehabilitation of real property as authorized by and in
9 accordance with G.S. 122C-100.11(e).

10 (3) Minimum commitment of at least three years.

11 (4) A memorandum of agreement addressing local service implementation
12 plans, payments for services purchased by the State, local program
13 activities supported by grants, and budget formatting and reporting.

14 (b) The county or counties proposing the business plan shall submit it to the
15 Secretary for review and certification. If the business plan meets all of the requirements
16 of State law and standards adopted by the Secretary, then the Secretary shall certify the
17 local program as a single-county program or a multicounty program. The Secretary shall
18 review the business plan within 30 days of receipt of the plan. If the Secretary
19 determines that changes to the plan are necessary, then the Secretary shall so notify the
20 submitting county and shall indicate in the notification the changes that need to be made
21 in order for the proposed local program to be certified. The submitting county shall have
22 30 days from receipt of the Secretary's notice to make the requested changes and
23 resubmit the amended plan to the Secretary for review. The Secretary shall provide
24 whatever assistance is necessary to resolve outstanding issues.

25 **"§ 122C-89A. Status of local program; status of consolidated human services**
26 **agency.**

27 (a) A single-county program is a department of the county.

28 (b) A multicounty program is a department of the administering county for the
29 purposes of personnel administration of employees appointed by the local program
30 director and Chapter 159 of the General Statutes and such other purposes as may be
31 agreed to by participating counties.

32 (c) A consolidated human services agency is a department of the county.

33 **"§ 122C-90. Local program boards.**

34 Every local program shall have a local program board to conduct planning and other
35 activities related to the provision of mental health, developmental disabilities, and
36 substance abuse services in the local program services area. The local program board
37 shall:

38 (1) Engage in comprehensive services planning and, in consultation with
39 the local program director, develop local service implementation plans.

40 (2) Conduct reviews of local program services with the assistance of the
41 Local Ombudsman, assess the quality and availability of services, and
42 advise local officials through the Local Ombudsman.

43 (3) Plan and recommend a local program budget.

1 (4) With the assistance of the Local Ombudsman, submit to the county
2 board of commissioners for the administering county periodic reports
3 that assess the quality and availability of services, and progress in
4 implementing local service implementation plans, including service
5 goals and outcomes.

6 (5) Perform public relations and community advocacy functions.

7 (6) Recommend the creation of local program services.

8 **"§ 122C-91. Structure of local program board.**

9 (a) A local program board shall have no fewer than 11 and no more than 15
10 members. The size of the board may be changed from time to time as follows:

11 (1) In a single-county program, by the board of county commissioners.

12 (2) In a multicounty program, by agreement of the boards of county
13 commissioners of each of the counties in the local program. The
14 agreement shall be evidenced by concurrent resolutions adopted by the
15 affected boards of county commissioners.

16 (b) In a single-county program, the board of county commissioners shall appoint
17 the members of the board who may be removed with or without cause.

18 (c) In a multicounty program, each board of county commissioners within the
19 local program area shall appoint members of the program board. A member may be
20 removed, with or without cause, by the initial appointing authority.

21 (d) If a member of the program board does not attend three scheduled meetings
22 without justifiable excuse within a 12-month period, then the original appointing
23 authority for that member shall declare vacant the office of that member.

24 (e) The county commissioners authorized to make appointments to the program
25 board shall appoint new members to the program board to fill vacancies occurring on
26 the board before the end of the appointed term of office. These appointments are for the
27 remainder of the unexpired term of office.

28 (f) Whenever a vacancy occurs on the board, it shall be filled within 120 days.

29 (g) At least fifty percent (50%) of the members of the program board shall
30 represent the following:

31 (1) A physician licensed under Chapter 90 of the General Statutes to
32 practice medicine in North Carolina who, when possible, is certified as
33 having completed a residency in psychiatry.

34 (2) A professional representative from the fields either of psychology,
35 social work, nursing, or religion.

36 (3) An individual, either a primary consumer or an individual from a
37 citizens' organization composed primarily of consumers or their family
38 members, representing the interests of individuals with:

39 a. Mental illness; and

40 b. Developmental disabilities.

41 (4) A primary consumer presently and openly in recovery representing the
42 interests of individuals suffering from substance abuse.

43 (5) A family consumer representing the interests of individuals:

44 a. With mental illness;

- 1 b. With developmental disabilities; and
2 c. Who abuse substances.

3 (h) The board of county commissioners may elect to appoint a member of the
4 local program board to fill concurrently more than one category of membership if the
5 member has the qualifications or attributes of more than one category of membership.

6 (i) The terms of the members on the program board shall be for four years,
7 except that upon the initial formation of a program board one-fourth shall be appointed
8 for one year, one fourth for two years, one-fourth for three years, and all remaining
9 members for four years.

10 **"§ 122C-92. Organization of local program board.**

11 (a) The program board shall meet at least six times per year.

12 (b) Meetings shall be called by the program board chairman or by three or more
13 members of the program board after notifying the program board chairman in writing.

14 (c) Members of the program board elect the program board's chairman. The term
15 of office of the program board chairman shall be one year.

16 **"§ 122C-93. Local program board members' training.**

17 The administering county shall ensure that all members of a local program board
18 receive orientation and training on board members' responsibilities.

19 **"§ 122C-94. Compensation of program board members.**

20 (a) Local program board members may receive as compensation for their
21 services per diem and a subsistence allowance for each day during which they are
22 engaged in the official business of the program board. The amount of the per diem and
23 subsistence allowances shall be established by the administering county, and the
24 amounts shall not exceed those authorized by G.S. 138-5 for State boards.

25 (b) Local program board members may be reimbursed for all necessary travel
26 expenses and registration fees in amounts fixed by the program board.

27 **"§ 122C-95. Program director.**

28 The program director is the administrative head of the local program and is an
29 employee of the administering county. The program director shall be appointed by and
30 serve at the pleasure of the county manager of the administering county. The program
31 director shall report directly to the county manager of the administering county. The
32 program director shall:

33 (1) With the county manager's approval, appoint and supervise local
34 program staff who are employees of the administering county.

35 (2) With the agreement of participating counties in a multicounty
36 program, appoint and supervise other local program staff.

37 (3) Administer local program services.

38 (4) Plan the budget of the local program.

39 (5) Advise the board of county commissioners of the administering county
40 through the county manager.

41 (6) Act as a liaison between the local program and the State.

42 (7) Implement the policies and programs of the local program in
43 compliance with rules of the Commission and the Secretary.

44 **"§ 122C-96. Public guardians.**

1 The officers and employees of the Division, or any successor agency, and the
2 program director or any officer or employee of a local program designated by the local
3 program board, or any officer or employee of any facility designated by the local
4 program board, may, if they are a disinterested public agent as defined by G.S. 35A-
5 1202(4), serve as guardians for adults adjudicated incompetent under the provisions of
6 Subchapter I of Chapter 35A of the General Statutes, and they shall so act if ordered to
7 serve in that capacity by the clerk of superior court having jurisdiction of a proceeding
8 brought under that Subchapter. Bond shall be required or purchased as provided by G.S.
9 35A-1239.

10 **"§ 122C-97. Other agency responsibility.**

11 Notwithstanding the provisions of G.S. 122C-85(a)(15), 122C-90(1), 122C-100.2,
12 and 122C-100.3, other agencies of the Department, other State agencies, and other local
13 agencies shall continue responsibility for services they provide for persons with
14 developmental disabilities.

15 **"§ 122C-98. County reimbursement to State for disallowed expenditures.**

16 Any funds or part thereof of a local program that are transferred by the local
17 program to any entity including a firm, partnership, corporation, company, association,
18 joint stock association, agency, or nonprofit private foundation shall be subject to
19 reimbursement by the local program to the State when expenditures of the local
20 program are disallowed pursuant to a State or federal audit.

21 **"§ 122C-99. Local program funding suspended.**

22 (a) If the Secretary determines that a local program is not providing minimally
23 adequate services, in accordance with rules adopted by the Secretary, to persons in need
24 in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary,
25 after providing written notification of the Secretary's intent to the local program board
26 and the administering county, and after providing the local program an opportunity to be
27 heard, may withhold funding for the particular service or services in question from the
28 local program and ensure the provision of these services through contracts with public
29 or private agencies or by direct operation by the Department.

30 (b) Upon suspension of funding, the Department shall, in conjunction with the
31 local program, develop and implement a corrective plan of action and provide
32 notification to the local program board and the administering county of the plan. The
33 Department shall also keep the county board of commissioners of the administering
34 county and the local program board informed of any ongoing concerns or problems with
35 the local program's finances or delivery of services.

36 (c) The notice requirements of this section apply to the board of county
37 commissioners of each of the counties participating in a multicounty local program.

38 **"§ 122C-100. Local program failure to provide services; State assumption of**
39 **service delivery.**

40 At any time that the Secretary determines that a local program is not providing
41 minimally adequate services, in accordance with rules adopted by the Secretary, to
42 persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so,
43 the Secretary, after providing written notification of the Secretary's intent to the board of
44 county commissioners of the administering county and to the local program board, and

1 providing the local program an opportunity to be heard, may assume control of the
2 particular service in question or of the local program and appoint an administrator to
3 exercise the powers assumed. This assumption of control shall have the effect of
4 divesting the local program of its powers in G.S. 122C-88 and all other service delivery
5 powers conferred in the local program by law as they pertain to this service. County
6 funding of the local program shall continue when the State has assumed control of a
7 local program service area or of the local program. At no time after the State has
8 assumed this control shall a county withdraw funds previously obligated or appropriated
9 to the local program.

10 Upon assumption of control of service delivery, the Department shall, in conjunction
11 with the local program, develop and implement a corrective plan of action and provide
12 notification to the local program board of the plan. The Department shall also keep the
13 county board of commissioners of the administering county and the local program board
14 informed of any ongoing concerns or problems with the local program's delivery of
15 services.

16 **"§ 122C-100.1. Local program caretakers appointed.**

17 In the event that a local program fails to comply with the corrective plan of action
18 required pursuant to G.S. 122C-99 when funding is suspended, or pursuant to G.S.
19 122C-100 when the State assumes control of service delivery, the Secretary, after
20 providing written notification of the Secretary's intent to the local program board, shall
21 appoint a caretaker administrator, a caretaker board of directors, or both.

22 The Secretary may assign any of the powers and duties of the program director and
23 of the local program board and the caretaker board to the caretaker administrator as it
24 deems necessary and appropriate to continue to provide direct services to clients,
25 including the powers as to the adoption of budgets, expenditures of money, and all other
26 financial powers conferred on the local program by law. County funding of the local
27 program shall continue when the State has assumed control of the financial affairs of the
28 local program. At no time after the State has assumed this control shall a county
29 withdraw funds previously obligated or appropriated to the local program. The caretaker
30 administrator and the caretaker board shall perform all of these powers and duties. The
31 Secretary may terminate the program director when it appoints a caretaker
32 administrator. The Administrative Procedure Act shall apply to any such decision.
33 Neither party to any such contract shall be entitled to damages.

34 After a caretaker board has been appointed, the General Assembly shall consider, at
35 its next regular session, the future governance of the identified local program.

36 "Part 3.

37 "Consolidated Human Services.

38 **"§ 122C-100.2. Consolidated human services board; human services director.**

39 (a) Except as otherwise provided by this section and subject to any limitations
40 that may be imposed by the board of county commissioners under G.S. 153A-77, a
41 consolidated human services agency shall have the responsibility and authority set forth
42 in G.S. 122C-88 to carry out the programs established in this Chapter in conformity
43 with the rules and regulations of the Department and under the supervision of the
44 Secretary in the same manner as an administering county. In addition to the powers

1 conferred by G.S. 153A-77(d), a consolidated human services board shall have all the
2 powers and duties of the governing unit of a local program as provided by G.S. 122C-
3 88, except that the consolidated human services board may not:

- 4 (1) Appoint the human services director.
- 5 (2) Transmit or present the budget for social services programs.
- 6 (3) Enter into contracts, including contracts to provide services to
7 governmental or private entities, unless specifically authorized to do so
8 by the board of county commissioners in accordance with county
9 contracting policies and procedures.

10 (b) In addition to the powers conferred by G.S. 153A-77(e), a human services
11 director shall have all the powers and duties of a local program director as provided by
12 G.S. 122C-95, except that the human services director may:

- 13 (1) Serve as the executive officer of the consolidated human services
14 board only to the extent and in the manner authorized by the county
15 manager.
- 16 (2) Appoint staff of the consolidated human services agency only upon the
17 approval of the county manager.

18 The human services director serves as an employee of the county under the direct
19 supervision of the county manager."

20 "Part 4.

21 "Service Delivery System.

22 "**§ 122C-100.3. Composition of system.**

23 Mental health, developmental disabilities, and substance abuse services of the public
24 system of this State shall be delivered through local program facilities, State facilities,
25 and the network of private providers.

26 "**§ 122C-100.4. Single portal of entry and exit designation for mental health and**
27 **substance abuse facilities.**

28 (a) The public system should provide for a single portal of entry and exit policy
29 for State and local program mental health and substance abuse facilities. In order to
30 accomplish this objective, a local program desiring designation as a single portal area
31 shall present to the Secretary a single portal of entry and exit plan approved by the
32 county board of commissioners of the administering county. The decision as to whether
33 to choose to submit a plan is in the discretion of the county in a single-county program,
34 and with the county commissioners of each of the represented counties in a multicounty
35 program, after weighing the policy goal stated in this subsection and in G.S. 122C-83.
36 The single portal of entry and exit policy for State and local program mental health and
37 substance abuse facilities does not preclude those individuals who have the resources to
38 pay for the cost of inpatient hospital care without the use of any (i) public funds
39 appropriated to the local program or (ii) Medicaid funds from selecting a facility for
40 treatment and care which is different from that designated by the local program in its
41 single portal plan.

42 (b) In order for a single portal area to be designated, the single portal of entry and
43 exit plan shall be subject to approval by the Secretary. Once an area is designated by the

1 Secretary as a single portal area, any changes to the plan shall be subject to approval by
2 the Secretary.

3 (c) The plan shall include but not be limited to:

4 (1) A specific listing of facilities to be covered by the single portal of
5 entry and exit plan;

6 (2) Procedures for review of individuals to be admitted to or discharged
7 from State and local program facilities;

8 (3) Procedures for shared responsibility when individuals are admitted
9 directly to a State facility;

10 (3a) Procedures for treatment of mentally retarded individuals with mental
11 illness who are committed to a 24-hour facility;

12 (4) Evidence of incorporation of these plans within the contracts between
13 the local program and the State facilities and with other public and
14 private agencies as required in G.S. 122C-100.6;

15 (5) Evidence of cooperative arrangements with local law enforcement,
16 local courts, and the local medical society; and

17 (6) Procedures for review of citizen complaints.

18 (d) Residents of a county in a designated single portal area who do not have the
19 resources to pay for the cost of inpatient hospital care without the use of any (i) public
20 funds appropriated to the local program or (ii) Medicaid funds shall be admitted to or
21 discharged from State and local program facilities through the local program as
22 described in the local program's single portal of entry and exit policy.

23 **§ 122C-100.5. Single portal of entry and exit designation for public and private**
24 **services for individuals with developmental disabilities.**

25 (a) The public system shall, in cooperation with private providers, provide for a
26 single portal of entry and exit policy for services for individuals with developmental
27 disabilities. A local program shall present to the Secretary a single portal of entry and
28 exit plan for services for individuals with developmental disabilities that has been
29 approved by the county commissioners. Local programs are encouraged to use
30 community interagency councils in the development and implementation of single
31 portal of entry and exit policies. For purposes of this section, services for individuals
32 with developmental disabilities shall include 24-hour and day/night services for
33 individuals with developmental disabilities operated under the authority of this Chapter,
34 G.S. 131D-2, Part A of Article 6 of Chapter 131E of the General Statutes, Article 7 of
35 Chapter 110 of the General Statutes, rules of the Division of Vocational Rehabilitation
36 Services, and rules of the Social Services Commission.

37 (b) In order for a single portal area to be designated, the single portal of entry and
38 exit plan shall be subject to approval by the Secretary. Once an area is designated by the
39 Secretary as a single portal area, any changes to the plan shall be subject to approval by
40 the Secretary. However, an approved plan and designation as a single portal area shall
41 remain in force pending approval of any changes.

42 (c) The plan shall include:

43 (1) A specific listing of services for individuals with developmental
44 disabilities to be covered by the single portal of entry and exit plan;

- 1 (2) Procedures for review of individuals to be admitted to or discharged
2 from services for individuals with developmental disabilities;
3 (3) Procedures for shared responsibility when individuals are admitted
4 directly to a State facility;
5 (4) Evidence of incorporation of these plans within the contracts between
6 the local program and the State facilities, and with other public and
7 private agencies as required in G.S. 122C-100.6;
8 (5) Evidence of cooperative arrangements with services for individuals
9 with developmental disabilities not otherwise under contract with the
10 area authorities;
11 (6) Procedures for review of facility and citizen complaints;
12 (7) Provisions for services funded jointly by local programs and local
13 education agencies; and
14 (8) Provisions for services funded jointly by local programs and the
15 Division of Vocational Rehabilitation Services.

16 When the services described in subdivisions (7) and (8) of this subsection are not
17 funded jointly, these services shall not be part of the plan prescribed in this subsection.
18 The local education agencies and the Division of Vocational Rehabilitation Services
19 upon receipt of a written request shall notify annually the appropriate local program of
20 the projected number of individuals with developmental disabilities needing day/night
21 and 24-hour services who are not otherwise included in the plan.

22 "Part 5.

23 "Local Program Facilities.

24 "**§ 122C-100.6. Provision of services.**

25 (a) An administering county shall contract with other public or private agencies,
26 institutions, or resources for the provision of services. An administering county may
27 provide services directly when other public or private providers are unavailable to meet
28 service needs. When providing services directly, an administering county must ensure
29 consumer choice and fair competition in accordance with rules adopted by the
30 Secretary.

31 (b) All local program services provided directly or under contract shall meet the
32 requirements of applicable State and federal law and the rules of the Commission and
33 the Secretary. The Secretary may delay payments and, with written notification of
34 cause, may reduce or deny payment of funds if a local program fails to meet these
35 requirements.

36 (c) An administering county may contract with a health maintenance
37 organization, certified and operating in accordance with the provisions of Article 67 of
38 Chapter 58 of the General Statutes for the local program, to provide mental health,
39 developmental disabilities, or substance abuse services to enrollees in a health care plan
40 provided by the health maintenance organization. The terms of the contract must meet
41 the requirements of all applicable State statutes and rules of the Commission and
42 Secretary governing both the provision of services by an area authority and the general
43 and fiscal operation of a local program and the reimbursement rate for services rendered
44 shall be based on the usual and customary charges paid by the health maintenance

1 organization to similar providers. Any provision in conflict with a federal or State law
2 or rule of the Commission or the Secretary shall be void; however, the presence of any
3 void provision in that contract does not render void any other provision in that contract
4 which is not in conflict with a State statute or rule of the Commission or the Secretary.
5 Subject to approval by the Secretary and pending the timely reimbursement of the
6 contractual charges, the local program may expend funds for costs that may be incurred
7 by the local program as a result of providing the additional services under a contractual
8 agreement with a health maintenance organization.

9 **"§ 122C-100.7. Contract for services.**

10 (a) When an administering county contracts with persons for the provision of
11 services, the local program shall assure that these contracted services meet the
12 requirements of applicable State statutes and standards and the rules of the Commission
13 and the Secretary. Terms of the contract shall require the local program to monitor the
14 contract to assure that rules and State statutes and standards are met. The Secretary shall
15 monitor contracted services to assure that rules and State statutes and standards are met.

16 (b) When the administering county contracts for services, it may provide funds to
17 purchase liability insurance, to provide legal representation, and to pay any claim with
18 respect to liability for acts, omissions, or decisions by members of the boards or
19 employees of the persons with whom the administering county contracts. These acts,
20 omissions, and decisions shall be ones that arise out of the performance of the contract
21 and may not result from actual fraud, corruption, or actual malice on the part of the
22 board members or employees.

23 **"§ 122C-100.8. Substance abuse services for those convicted of driving while**
24 **impaired or driving while less than 21 years old after consuming alcohol**
25 **or drugs.**

26 (a) Services. – A local program shall provide, directly or by contract, the
27 substance abuse services needed by a person to obtain a certificate of completion
28 required under G.S. 20-17.6 as a condition for the restoration of a drivers license. A
29 person may obtain the required services from a local program facility, from a private
30 facility that has complied with this subsection, or, with the approval of the Department,
31 from an agency that is located in another state. Before a private facility located in this
32 State provides the substance abuse services needed by a person to obtain a certificate of
33 completion, the facility shall notify both the designated facility for the local program
34 service area in which it is located and the Department of its intent to provide the
35 services and shall agree to comply with the laws and rules concerning these services that
36 apply to local program facilities.

37 (b) Assessments. – To conduct a substance abuse assessment, a facility shall give
38 a client a standardized test approved by the Department to determine chemical
39 dependency and shall conduct a clinical interview with the client. Based on the
40 assessment, the facility shall recommend that the client either attend an alcohol and drug
41 education traffic (ADET) school or obtain treatment. A recommendation shall be
42 reviewed and signed by a certified alcoholism, drug abuse, or substance abuse
43 counselor, as defined by the Commission, a Certified Substance Abuse Counselor, or by
44 a physician certified by the American Society of Addiction Medicine (ASAM).

1 (c) School or Treatment. – Attendance at an ADET school is required if none of
2 the following applies and completion of a treatment program is required if any of the
3 following applies:

4 (1) The person took a chemical test at the time of the offense that caused
5 the person's license to be revoked, and the test revealed that the person
6 had an alcohol concentration at any relevant time after driving of at
7 least 0.15.

8 (2) The person has a prior conviction of an offense involving impaired
9 driving.

10 (3) The substance abuse assessment identifies a substance abuse disability.

11 (d) Standards. – An ADET school shall offer the curriculum established by the
12 Commission and shall comply with the rules adopted by the Commission. A substance
13 abuse treatment program offered to a person who needs the program to obtain a
14 certificate of completion shall comply with the rules adopted by the Commission.

15 (e) Certificate of Completion. – Any facility that issues a certificate of
16 completion shall forward the original certificate of completion to the Department. The
17 Department shall review the certificate of completion for accuracy and completeness. If
18 the Department finds the certificate of completion to be accurate and complete, the
19 Department shall forward it to the Division of Motor Vehicles of the Department of
20 Transportation. If the Department finds the certificate of completion is not accurate or
21 complete, the Department shall return the certificate of completion to the area facility
22 for appropriate action.

23 (f) Fees. – A person who has a substance abuse assessment conducted for the
24 purpose of obtaining a certificate of completion shall pay to the assessing agency a fee
25 of fifty dollars (\$50.00). A person shall pay to a treatment facility or school a fee of
26 seventy-five dollars (\$75.00). If the defendant is treated by a local program facility, G.S.
27 122C-100.11 applies after receipt of the seventy-five dollar (\$75.00) fee.

28 A facility that provides to a person who is required to obtain a certificate of
29 completion a substance abuse assessment, an ADET school, or a substance abuse
30 treatment program may require the person to pay a fee required by this subsection
31 before it issues a certificate of completion. As stated in G.S. 122C-100.11, however, a
32 local program facility may not deny a service to a person because the person is unable to
33 pay.

34 A county shall remit to the Department five percent (5%) of each fee paid to the area
35 facility under this subsection by a person who attends an ADET school conducted by
36 the local program facility. The Department may use amounts remitted to it under this
37 subsection only to support, evaluate, and administer ADET schools.

38 (g) Out-of-State Services. – A person may obtain a substance abuse service
39 needed to obtain a certificate of completion from a provider located in another state if
40 the service offered by that provider is substantially similar to the service offered by a
41 provider located in this State. A person who obtains a service from a provider located in
42 another state is responsible for paying any fees imposed by the provider.

43 (h) Rules. – The Commission may adopt rules to implement this section. In
44 developing rules for determining when a person needs to be placed in a substance abuse

1 treatment program, the Commission shall consider diagnostic criteria such as those
2 contained in the most recent revision of the Diagnostic and Statistical Manual or those
3 used by the American Society of Addiction Medicine (ASAM).

4 (i) Report. – The Department shall submit an annual report on substance abuse
5 assessments to the Joint Legislative Commission on Governmental Operations. The
6 report is due by February 1. Each facility that provides services needed by a person to
7 obtain a certificate of completion shall file an annual report with the Department by
8 October 1 that contains the information the Department needs to compile the report the
9 Department is required to submit under this section.

10 The report submitted to the Joint Legislative Commission on Governmental
11 Operations shall include all of the following information and any other information
12 requested by that Commission:

- 13 (1) The number of persons required to obtain a certificate of completion
14 during the previous fiscal year as a condition of restoring the person's
15 drivers license under G.S. 20-17.6.
- 16 (2) The number of substance abuse assessments conducted during the
17 previous fiscal year for the purpose of obtaining a certificate of
18 completion.
- 19 (3) Of the number of assessments reported under subdivision (2) of this
20 subsection, the number recommending attendance at an ADET school,
21 the number recommending treatment, and, for those recommending
22 treatment, the level of treatment recommended.
- 23 (4) Of the number of persons recommended for an ADET school or
24 treatment under subdivision (3) of this subsection, the number who
25 completed the school or treatment.
- 26 (5) The number of substance abuse assessments conducted by each facility
27 and, of these assessments, the number that recommended attendance at
28 an ADET school and the number that recommended treatment.
- 29 (6) The fees paid to a facility for providing services for persons to obtain a
30 certificate of completion and the facility's costs in providing those
31 services.

32 **"§ 122C-100.9. State Plan for mental health, developmental disabilities, and**
33 **substance abuse services.**

34 The Department shall develop and implement a State Plan for Mental Health,
35 Developmental Disabilities, and Substance Abuse Services. The State Plan shall include
36 the following:

- 37 (1) Vision and mission of the State Mental Health, Developmental
38 Disabilities, and Substance Abuse Services system.
- 39 (2) Organizational structure of the Department and the Divisions of the
40 Department responsible for managing and monitoring mental health,
41 developmental disabilities, and substance abuse services.
- 42 (3) Protection of client rights and consumer involvement in planning and
43 management of system services.

- 1 (4) Provision of services to targeted populations, including criteria for
2 identifying targeted populations.
- 3 (5) Compliance with federal mandates in establishing service priorities in
4 mental health, developmental disabilities, and substance abuse.
- 5 (6) Description of the core services that are available to all individuals in
6 order to improve consumer access to mental health, developmental
7 disabilities, and substance abuse services at the local level.
- 8 (7) A service plan that includes service standards and outcomes for core
9 services and services for targeted populations, including methods for
10 identifying and filling gaps in services, and a coordinated system of
11 care.
- 12 (8) Strategies and schedules for implementing the service plan, including
13 engagement of stakeholders in planning, coordinated Medicaid policy
14 development, inter-system collaboration, promotion of best practices,
15 technical assistance, outcome-based monitoring, and evaluation.
- 16 (9) A business plan to demonstrate efficient and effective resource
17 management of the mental health, developmental disabilities, and
18 substance abuse services system.

19 **§ 122C-100.10. Fee for service.**

20 An administering county and its contractual agencies shall prepare fee schedules for
21 services and shall make every reasonable effort to collect appropriate reimbursement for
22 costs in providing these services from individuals or entities able to pay, including
23 insurance and third-party payment, except that individuals may not be charged for free
24 services, as required in 'The Amendments to the Education of the Handicapped Act',
25 P.L. 99-457, provided to eligible infants and toddlers and their families. This exemption
26 from charges does not exempt insurers or other third-party payors from being charged
27 for payment for these services, if the person who is legally responsible for any eligible
28 infant or toddler is first advised that the person may or may not grant permission for the
29 insurer or other payor to be billed for the free services. However, no individual may be
30 refused services because of an inability to pay. All funds collected from fees from local
31 program operated services shall be used for the fiscal operation or capital improvements
32 of the local program's programs. The collection of fees by a local program may not be
33 used as justification for reduction or replacement of the budgeted commitment of local
34 tax revenue.

35 **§ 122C-100.11. Financing and title of local program property.**

36 (a) Unless otherwise specified by the Secretary, State appropriations to local
37 programs shall be used exclusively for the operating costs of the local program;
38 provided, however:

- 39 (1) The Secretary may specify that designated State funds may be used by
40 the local program (i) for the purchase, alteration, improvement, or
41 rehabilitation of real estate to be used as a facility or (ii) in contracting
42 with a private, nonprofit corporation or with another governmental
43 entity that operates facilities for the mentally ill, developmentally
44 disabled, or substance abusers and according to the terms of the

1 contract between the local program and the private, nonprofit
2 corporation or with the governmental entity, for the purchase,
3 alteration, improvement, rehabilitation of real estate or, to make a
4 lump-sum down payment or periodic payments on a real property
5 mortgage in the name of the private, nonprofit corporation or
6 governmental entity.

7 (2) Upon cessation of the use of the facility by the local program, if
8 operated by the local program, or upon termination, default, or
9 nonrenewal of the contract if operated by a contractual agency, the
10 Department shall be reimbursed in accordance with rules adopted by
11 the Secretary for the Department's participation in the purchase of the
12 facility.

13 (b) All real property purchased for use by the local program shall be provided by
14 local or federal funds unless otherwise allowed under subsection (a) of this section or by
15 specific capital funds appropriated by the General Assembly.

16 (c) Equipment necessary for the operation of the local program may be obtained
17 with local, State, federal, or donated funds or a combination of these.

18 (d) All local program funds shall be spent in accordance with the rules of the
19 Secretary. Failure to comply with the rules is grounds for the Secretary to stop
20 participation in the funding of the particular program. The Secretary may withdraw
21 funds from a specific program of services not being administered in accordance with an
22 approved plan and budget after written notice and subject to an appeal as provided by
23 G.S. 122C-100.16 and Chapter 150B of the General Statutes.

24 (e) An administering county, with the approval of the Secretary, may use local
25 funds for the alteration, improvement, and rehabilitation of real property owned by a
26 nonprofit corporation or by another governmental entity under contract with the
27 administering county and used or to be used as a facility.

28 **"§ 122C-100.12. Appropriations and allocations.**

29 (a) Funds appropriated by the General Assembly for mental health,
30 developmental disabilities, and substance abuse services shall be allocated by the
31 Secretary to administering counties.

32 (b) When the General Assembly determines that it is necessary to appropriate
33 funds for a specific program or purpose, the Secretary shall determine whether
34 expenditure accounting, special reporting within earning from a broad fund, the local
35 program business plan, or some other mechanism allows the best accounting for the
36 funds.

37 (c) Funds that have been appropriated by the General Assembly for a specific
38 program or purpose shall be converted to a broad age/disability category at the
39 beginning of the second biennium following the appropriation, unless otherwise acted
40 upon by the General Assembly.

41 **"§ 122C-100.13. Responsibilities of those receiving appropriations.**

42 (a) All resources allocated to and received by any administering county and used
43 for programs of mental health, developmental disabilities, substance abuse, or other

1 related services are subject to the conditions specified in this Article, the rules of the
2 Commission and the Secretary, and to the provisions of the local program business plan.

3 (b) If a local program fails to complete actions necessary for compliance with the
4 local program business plan, fails to file required reports within the time limit set by the
5 Secretary, or fails to comply with any other requirements specified in this Article, the
6 Secretary may:

7 (1) Delay payments; and

8 (2) With written notification of cause and subject to an appeal as provided
9 by G.S. 122C-100.14, reduce or deny payment of funds. Restoration of
10 funds upon compliance is within the discretion of the Secretary.

11 **"§ 122C-100.14. Appeal by local programs.**

12 (a) The administering county may appeal to the Commission any action
13 regarding rules under the jurisdiction of the Commission or rules under the joint
14 jurisdiction of the Commission and the Secretary.

15 (b) The administering county may appeal to the Secretary any action regarding
16 rules under the jurisdiction of the Secretary.

17 (c) Appeals shall be conducted according to rules adopted by the Commission
18 and Secretary and in accordance with Chapter 150B of the General Statutes.

19 **"§ 122C-100.15. Dispute with local programs.**

20 A local program shall establish written procedures for resolving disputes over
21 decisions of a local program that may be appealed to the State MH/DD/SA Appeals
22 Panel under G.S. 122C-100.19. The procedures shall be informal and shall provide an
23 opportunity for those who dispute the decision to present their position.

24 **"§ 122C-100.16. Appeal to State MH/DD/SA Appeals Panel.**

25 (a) Definitions. – The following definitions apply in this section:

26 (1) 'Appeals panel' means the State MH/DD/SA Appeals Panel established
27 under this section.

28 (2) 'Client' means an individual who is admitted to or receiving services
29 from a local program facility, or who in the current or previous fiscal
30 year has received or applied to receive services from an area facility or
31 local program facility. 'Client' includes the client's personal
32 representative or designee.

33 (3) 'Contract' means a contract with a local program to provide services,
34 other than personal services, to clients and other recipients of services.

35 (4) 'Contractor' means a person who has a contract or who had a contract
36 during the current fiscal year.

37 (5) 'Former contractor' means a person who had a contract during the
38 previous fiscal year.

39 (b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The
40 Panel shall consist of three members appointed by the Secretary. The Secretary shall
41 determine the qualifications of the Panel members. Panel members serve at the pleasure
42 of the Secretary.

43 (c) Who May Appeal. – The following persons may appeal to the Appeals Panel
44 after having exhausted the appeals process at the appropriate local program:

- 1 (1) A contractor or a former contractor who claims that an administering
2 county is not acting or has not acted within applicable State law or
3 rules in imposing a particular requirement on the contractor on
4 fulfillment of the contract;
- 5 (2) A contractor or a former contractor who claims that a requirement of
6 the contract substantially compromises the ability of the contractor to
7 fulfill the contract;
- 8 (3) A contractor or former contractor who claims that an administering
9 county has acted arbitrarily and capriciously in reducing funding for
10 the type of services provided or formerly provided by the contractor or
11 former contractor;
- 12 (4) A client or a person who was a client of the local program or an area
13 authority in the previous fiscal year, or the client's or former client's
14 representative, who claims that an administering county has acted
15 arbitrarily and capriciously in reducing funding for the type of services
16 provided or formerly provided to the client by the administering
17 county; and
- 18 (5) A person who claims that an administering county did not comply with
19 a State law or a rule adopted by the Secretary or the Commission in
20 developing the plans and budgets of the local program and that the
21 administering county's failure to comply has adversely affected the
22 ability of the person to participate in the development of the plans and
23 budgets.

24 (d) Hearing. – All members of the Appeals Panel shall hear an appeal to the
25 Panel. An appeal shall be filed with the Appeals Panel within the time required by the
26 Secretary and shall be heard by the Appeals Panel within the time required by the
27 Secretary. A hearing shall be conducted at the place determined in accordance with the
28 rules adopted by the Secretary. A hearing before the Appeals Panel shall be informal; no
29 sworn testimony shall be taken and the rules of evidence do not apply. The person who
30 appeals to the Appeals Panel has the burden of proof. The Appeals Panel shall not stay a
31 decision of a local program during an appeal to the Appeals Panel.

32 (e) Decision. – The Appeals Panel shall make a written decision on each appeal
33 to the Appeals Panel within the time set by the Secretary. A decision may direct a
34 contractor or a local program to take an action or to refrain from taking an action, but it
35 shall not require a party to appeal to pay any amount except payment due under the
36 contract. In making a decision, the Appeals Panel shall determine the course of action
37 that best protects or benefits the clients of the local program. If a party to an appeal fails
38 to comply with a decision of the Appeals Panel and the Secretary determines that the
39 failure deprives clients of the local program of a type of needed service, the Secretary
40 may use funds previously allocated to the local program to provide the service.

41 (f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the
42 Appeals Panel may commence a contested case under Article 3 of Chapter 150B of the
43 General Statutes. Notwithstanding G.S. 150B-2(1), a local program is considered an

1 agency for purposes of the limited appeal authorized by this section. The Secretary shall
2 make a final decision in the contested case.

3 **"§ 122C-100.17. Personnel.**

4 Employees appointed by the program director in accordance with G.S. 122C-95(1)
5 are employees of the administering county. For the purpose of personnel administration
6 of a local program, Chapter 126 of the General Statutes applies unless otherwise
7 provided in this Article.

8 **"§ 122C-100.18. Supervision of services.**

9 Unless otherwise specified, client services are the responsibility of a qualified
10 professional. Direct medical and psychiatric services shall be provided by a qualified
11 psychiatrist or a physician with adequate training and experience acceptable to the
12 Secretary.

13 **"§ 122C-100.19. Salary plan for employees of the local program.**

14 An administering county shall establish a salary plan which shall set the salaries for
15 local program employees appointed by the program director. The salary plan shall be in
16 compliance with Chapter 126 of the General Statutes. In a multicounty local program,
17 the salary plan shall not exceed the highest paying salary plan of any participating
18 county. In a single-county local program, the salary plan shall not exceed the
19 administering county's salary plan. The salary plan limitations set forth in this section
20 may be exceeded only if the board or boards of county commissioners, as the case may
21 be, jointly agree to exceed these limitations.

22 **"§ 122C-100.20. Establishment of a professional reimbursement policy.**

23 An administering county shall adopt and enforce a professional reimbursement
24 policy. This policy shall (i) require that fees for the provision of services received
25 directly under the supervision of the program director shall be paid to the administering
26 county, (ii) prohibit employees of the administering county from providing services on a
27 private basis which require the use of the resources and facilities of the local program,
28 and (iii) provide that employees may not accept dual compensation and dual
29 employment unless they have the written permission of the administering county.

30 "Part 6.

31 "State Facilities.

32 **"§ 122C-100.28. Secretary's jurisdiction over State facilities.**

33 (a) Except as provided in subsection (b) of this section, the Secretary shall
34 operate the following facilities:

35 (1) For the mentally ill:

- 36 a. Cherry Hospital;
- 37 b. Dorothea Dix Hospital;
- 38 c. John Umstead Hospital;
- 39 d. Broughton Hospital; and

40 (2) For the mentally retarded:

- 41 a. Caswell Center;
- 42 b. O'Berry Center;
- 43 c. Murdoch Center;
- 44 d. Western Carolina Center;

- 1 e. Black Mountain Center; and
2 (3) For substance abusers:
3 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
4 Greenville;
5 b. Julian F. Keith Alcohol and Drug Abuse Treatment Center; and
6 (4) As special care facilities:
7 a. North Carolina Special Care Center;
8 b. Whitaker School; and
9 c. Wright School.

10 (b) The Secretary may, with the approval of the Governor and Council of State,
11 close any State facility.

12 **"§ 122C-100.29. Authority to contract with administering county.**

13 To establish a coordinated system of services for its clients, a State facility shall
14 contract with an administering county. Contracted services shall meet the rules of the
15 Commission and the Secretary.

16 **"§ 122C-100.30. Appointment of employees as police officers who may arrest**
17 **without warrant.**

18 The director of each State facility may appoint as special police officers the number
19 of employees of their respective facilities they consider necessary. Within the grounds
20 of the State facility the employees appointed as special police officers have all the
21 powers of police officers of cities. They have the right to arrest without warrant
22 individuals committing violations of the State law or the ordinances or rules of that
23 facility in their presence and to bring the offenders before a magistrate who shall
24 proceed as in other criminal cases.

25 **"§ 122C-100.31. Oath of special police officers.**

26 Before exercising the duties of a special police officer, the employees appointed
27 under G.S. 122C-183 shall take an oath or affirmation of office before an officer
28 empowered to administer oaths. The oath or affirmation shall be filed with the records
29 of the Department. The oath or affirmation of office is:

30 State of North Carolina: _____ County.

31 I, _____, do solemnly swear (or affirm) that I will well and truly execute the
32 duties of office of special police officer in and for the State facility called
33 _____, according to the best of my skill and ability and according to law; and
34 that I will use my best endeavors to enforce all the ordinances of said facility,
35 and to suppress nuisances, and to suppress and prevent disorderly conduct within
36 these grounds. So help me, God.

37 Sworn and subscribed before me, this _____ day of _____, A.D. _____

38 **"§ 122C-100.32. Application of funds belonging to State facilities.**

39 (a) All moneys and proceeds of property donated to any State facility shall be
40 deposited into the State treasury and accounted for in the appropriate fund as
41 determined by the Secretary and approved by the Office of State Budget, Planning, and
42 Management. All moneys and proceeds of property donated in which there are special
43 directions for their application and the interest earned on these funds shall be spent as
44 the donor has directed and except as required for deposit with the State treasury, shall

1 not be subject to the provisions of the Executive Budget Act except for capital
2 improvements projects which shall be authorized and executed in accordance with G.S.
3 143-18.1.

4 (b) Proceeds from the transfer or sale of surplus, obsolete, or unused equipment
5 of State facilities shall be deposited and accounted for in accordance with G.S. 143-
6 49(4).

7 (c) The net proceeds from the sale, lease, rental, or other disposition of real estate
8 owned by a State facility shall be deposited and accounted for in accordance with G.S.
9 146-30.

10 (d) All proceeds from the operation of vending facilities as defined in G.S. 111-
11 42(d) and operated by State facilities shall be deposited and accounted for in accordance
12 with G.S. 143-12.1.

13 (e) All other revenues and other receipts collected by a State facility shall be
14 deposited to the credit of the State treasury in accordance with G.S. 147-77.

15 **"§ 122C-100.33. General Assembly visitors of State facilities.**

16 The members of the General Assembly are ex officio visitors of all State facilities,
17 provided that the common law right of visitation of a State facility is abrogated to the
18 extent that it does not include the right to access to confidential information. This right
19 of access is only as granted by statute.

20 "Part 7.

21 "Quality Assurance.

22 **"§ 122C-100.34. Quality of services.**

23 (a) The assurance that services provided are of the highest possible quality within
24 available resources is an obligation of local programs and the Secretary.

25 (b) Each local program and State facility shall comply with the rules of the
26 Commission regarding quality assurance activities, including: program evaluation;
27 utilization and peer review; and staff qualifications, privileging, supervision, education,
28 and training. These rules may not nullify compliance otherwise required by Chapter 126
29 of the General Statutes.

30 (c) Each local program and State facility shall develop internal processes to
31 monitor and evaluate the level of quality obtained by all its programs and services
32 including the activities prescribed in the rules of the Commission.

33 (d) The Secretary shall develop rules for a review process to monitor county
34 facilities and State facilities for compliance with the required quality assurance
35 activities as well as other rules of the Commission and the Secretary. The rules may
36 provide that the Secretary has the authority to determine whether applicable standards of
37 practice have been met.

38 (e) For purposes of peer review functions only:

39 (1) A member of a duly appointed quality assurance committee who acts
40 without malice or fraud shall not be subject to liability for damages in
41 any civil action on account of any act, statement, or proceeding
42 undertaken, made, or performed within the scope of the functions of
43 the committee.

1 (2) The proceedings of a quality assurance committee, the records and
2 materials it produces, and the material it considers shall be confidential
3 and not considered public records within the meaning of G.S. 132-1,
4 ' "Public records" defined,' and shall not be subject to discovery or
5 introduction into evidence in any civil action against a facility or a
6 provider of professional health services that results from matters which
7 are the subject of evaluation and review by the committee. No person
8 who was in attendance at a meeting of the committee shall be required
9 to testify in any civil action as to any evidence or other matters
10 produced or presented during the proceedings of the committee or as to
11 any findings, recommendations, evaluations, opinions, or other actions
12 of the committee or its members. However, information, documents or
13 records otherwise available are not immune from discovery or use in a
14 civil action merely because they were presented during proceedings of
15 the committee, and nothing herein shall prevent a provider of
16 professional health services from using such otherwise available
17 information, documents or records in connection with an
18 administrative hearing or civil suit relating to the medical staff
19 membership, clinical privileges, or employment of the provider. A
20 member of the committee or a person who testifies before the
21 committee may be subpoenaed and be required to testify in a civil
22 action as to events of which the person has knowledge independent of
23 the peer review process, but cannot be asked about his testimony
24 before the committee for impeachment or other purposes or about any
25 opinions formed as a result of the committee hearings.

26 (3) Peer review information that is confidential and is not subject to
27 discovery or use in civil actions under subdivision (2) of this
28 subsection may be released to a professional standards review
29 organization that contracts with an agency of this State or the federal
30 government to perform any accreditation or certification function.
31 Information released under this subdivision shall be limited to that
32 which is reasonably necessary and relevant to the standards review
33 organization's determination to grant or continue accreditation or
34 certification. Information released under this subdivision retains its
35 confidentiality and is not subject to discovery or use in any civil
36 actions as provided under subdivision (2) of this subsection, and the
37 standards review organization shall keep the information confidential
38 subject to that subdivision.

39 **§ 122C-100.35. Review and protection of information.**

40 (a) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to
41 confidentiality of communications involving a patient or client, as needed to ensure
42 quality assurance activities, the Secretary may review any writing or other record
43 concerning the admission, discharge, medication, treatment, medical condition, or

1 history of a client of a local program or State facility. The Secretary may also review the
2 personnel records of employees of a local program or State facility.

3 (b) A local program, State facility, its employees, and any other individual
4 interviewed in the course of an inspection are immune from liability for damages
5 resulting from disclosure of any information to the Secretary.

6 Except as required by law, it is unlawful for the Secretary or his representative to
7 disclose:

8 (1) Any confidential or privileged information obtained under this section
9 unless the client or his legally responsible person authorizes disclosure
10 in writing; or

11 (2) The name of anyone who has furnished information concerning a local
12 program or State facility without that individual's consent.

13 Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not
14 to exceed five hundred dollars (\$500.00).

15 (c) The Secretary shall adopt rules to ensure that unauthorized disclosure does
16 not occur.

17 (d) All confidential or privileged information obtained under this section and the
18 names of individuals providing such information are not public records under Chapter
19 132 of the General Statutes."

20 **SECTION 1.6.(a)** Chapter 122C of the General Statutes is amended by
21 adding the following new Article to read:

22 "Article 1A.

23 MH/DD/SA Quality of Care Ombudsman Program."

24 **"§ 122C-10. MH/DD/SA Quality of Care Ombudsman Program.**

25 The General Assembly finds that many consumers of mental health, developmental
26 disabilities, and substance abuse services are uncertain about their rights and
27 responsibilities and how to access the public service system to obtain appropriate care
28 and treatment. The General Assembly recognizes the importance of ensuring that
29 consumers have information about the availability of services and access to resources to
30 obtain timely quality care. There is established The MH/DD/SA Quality of Care
31 Ombudsman Program. The purpose of this Program is to provide consumers, their
32 families, and providers with the information and assistance needed to locate appropriate
33 services, resolve complaints, or address common concerns and promote community
34 involvement. It is further the intent of the General Assembly that the Department,
35 within available resources and pursuant to its duties under this Chapter, ensure that the
36 performance of the mental health care system in this State is closely monitored, reviews
37 are conducted, findings and recommendations and reports are made, and that local and
38 systemic problems are identified and corrected when necessary to promote the rights
39 and interests of all consumers of mental health, developmental disabilities, and
40 substance abuse services.

41 **"§ 122C-11. MH/DD/SA Quality of Care Ombudsman Program/ definitions.**

42 Unless the context clearly requires otherwise, as used in this Article:

43 (1) 'MH/DD/SA' means mental health, developmental disabilities, and
44 substance abuse.

- 1 (2) 'State Ombudsman' means the individual charged with the duties and
2 functions of the State MH/DD/SA Quality of Care Ombudsman
3 Program established under this Article.
- 4 (3) 'State Ombudsman Program' means the State MH/DD/SA Quality of
5 Care Ombudsman Program.
- 6 (4) 'Local Ombudsman' means an individual employed and certified by the
7 State Ombudsman to perform the duties and functions of the
8 MH/DD/SA Quality of Care Local Ombudsman Program in
9 accordance with this Article.
- 10 (5) 'Local Ombudsman Program' means a local MH/DD/SA Quality of
11 Care Local Ombudsman Program.
- 12 (6) 'Consumer' means an individual who is admitted to or receiving
13 service from, or who in the past had been admitted to or received
14 services from, a State or local program facility.

15 **"§ 122C-12. State MH/DD/SA Quality of Care Ombudsman Program.**

16 The Secretary shall establish a State MH/DD/SA Quality of Care Ombudsman
17 Program office in the Office of the Secretary of Health and Human Services. The
18 Secretary shall appoint a State Ombudsman. In selecting the State Ombudsman, the
19 Secretary shall consider candidates recommended by citizens' organizations
20 representing the interest of individuals with needs for mental health, developmental
21 disabilities, and substance abuse services. The State Ombudsman may hire individuals
22 to assist in executing the State Ombudsman Program and to act on the State
23 Ombudsman's behalf. The State Ombudsman shall have expertise and experience in
24 MH/DD/SA, including expertise and experience in advocacy. The Attorney General
25 shall provide legal staff and advice to the State Ombudsman.

26 **"§ 122C-13. State Ombudsman duties.**

27 The State Ombudsman shall:

- 28 (1) Establish Local Quality Care of Ombudsman Programs described in
29 G.S. 122C-14 and appoint the Local Ombudsmen.
- 30 (2) Establish certification criteria and minimum training requirements for
31 Local Ombudsmen.
- 32 (3) Certify Local Ombudsmen. The certification requirements shall
33 include completion of the minimum training requirements as
34 established by the State Ombudsman.
- 35 (4) Provide training and technical assistance to Local Ombudsmen.
- 36 (5) Establish procedures for processing and resolving quality of care
37 complaints both at the State and local levels.
- 38 (6) Establish procedures for appropriate access by the State and Local
39 Ombudsmen to State and local program facilities and records to ensure
40 MH/DD/SA quality of care. The procedures shall include, but not be
41 limited to, interviews of owners, consumers, and employees of State
42 and local program facilities and on-site monitoring of conditions and
43 services. The procedures shall ensure the confidentiality of these

1 records and that the identity of any complainant or consumer will not
2 be disclosed except as otherwise provided by law.

3 (7) Provide information to the public about available MH/DD/SA services,
4 complaint procedures, and dispute resolution processes.

5 (8) Analyze and monitor the development and implementation of federal,
6 State, and local laws, regulations, and policies relating to consumers
7 and recommend changes as considered necessary to the Secretary.

8 (9) Analyze and monitor data relating to complaints or concerns about
9 access and quality of care issues to identify significant local or
10 systemic problems, as well as opportunities for improvement, and
11 advise and assist the Secretary in developing policies, plans, and
12 programs for ensuring that the quality of services provided to
13 consumers is of a uniformly high standard.

14 (10) Submit a report annually to the Secretary, the Joint Legislative
15 Oversight Committee on Mental Health, Developmental Disabilities,
16 and Substance Abuse Services, and the Joint Legislative Health Care
17 Oversight Committee containing data and findings regarding the types
18 of problems experienced and complaints reported by or on behalf of
19 providers, consumers, and employees of providers, as well as
20 recommendations to resolve identified quality of care issues and to
21 improve the administration of MH/DD/SA facilities and the delivery of
22 MH/DD/SA services throughout the State.

23 **§ 122C-14. Local Ombudsman; duties.**

24 (a) The State Ombudsman shall establish a Local MH/DD/SA Quality of Care
25 Ombudsman Program in 12 locations in the State. In determining where to locate the
26 Local Ombudsman Programs, the State Ombudsman shall ensure reasonable consumer
27 accessibility to the Local Ombudsmen. Local Ombudsmen shall administer the Local
28 Ombudsman Programs. The State Ombudsman shall appoint a Local Ombudsman for
29 each of the Local Ombudsman Programs. The State Ombudsman shall supervise the
30 Local Ombudsmen.

31 (b) Pursuant to policies and procedures established by the State Ombudsman, the
32 Local Ombudsman shall:

33 (1) Assist consumers and their families with information, referral, and
34 assistance in obtaining appropriate services.

35 (2) Assist consumers and their families in understanding their rights and
36 remedies available to them from the public service system.

37 (3) Serve as a liaison between consumers and their families and facility
38 personnel and administration.

39 (4) Promote the development of consumer and citizen involvement in
40 addressing issues relating to MH/DD/SA.

41 (5) Visit the State and local program facilities to review and evaluate the
42 quality of care provided to consumers and submit findings to the State
43 Ombudsman.

- 1 (6) Work with providers and consumers and their families or advocates to
2 resolve issues of common concern.
- 3 (7) Participate in regular Local Ombudsman training established by the
4 State Ombudsman.
- 5 (8) Report regularly to the administering county and the local program
6 board about the Local Ombudsman's activities, including the findings
7 made pursuant to subdivision (5) of this subsection (b).
- 8 (9) Provide training and technical assistance to counties, local program
9 boards and providers concerning responding to consumers, evaluating
10 quality of care, and determining availability of services and access to
11 resources.
- 12 (11) Provide information to the public on MH/DD/SA issues.
- 13 (12) Perform any other related duties as directed by the State Ombudsman.

14 **"§ 122C-15. State/Local Ombudsman; authority to enter; communication with**
15 **residents, clients, patients; review of records.**

16 (a) For purposes of this Section, §122C-16 and §122C-17, 'Ombudsman' means
17 either the State Ombudsman or any Local Ombudsman.

18 (b) In performing the Ombudsman's duties, an Ombudsman shall have access at
19 all times to any State or local program facility and shall have reasonable access to any
20 consumer or to an employee of a State or local program facility. Entry and access to any
21 consumer or to an employee shall be conducted in a manner that will not significantly
22 disrupt the provision of services. If a facility requires visitor registration, then the
23 Ombudsman shall register.

24 (c) In performing the Ombudsman's duties, an Ombudsman may communicate
25 privately and confidentially with a consumer. A consumer shall not be compelled to
26 communicate with an Ombudsman. When initiating communication, an Ombudsman
27 shall inform the consumer of the Ombudsman's purpose and that a consumer may refuse
28 to communicate with the Ombudsman. An Ombudsman also may communicate
29 privately and confidentially with State and local program facility employees in
30 performing the Ombudsman's duties.

31 (d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to
32 confidentiality of communications involving a consumer, in the course of performing
33 the Ombudsman's duties, the Ombudsman may access any information, whether
34 recorded or not, concerning the admission, discharge, medication, treatment, medical
35 condition, or history of any consumer to the extent permitted by federal law and
36 regulations. Notwithstanding any State law pertaining to the privacy of personnel
37 records, in the course of the Ombudsman's duties, the Ombudsman shall have access to
38 personnel records of employees of State or local program facilities.

39 **"§ 122C-16. State/Local Ombudsman; resolution of complaints.**

40 (a) Following receipt of a complaint, an Ombudsman shall attempt to resolve the
41 complaint using, whenever possible, informal mediation, conciliation, and persuasion.

42 (b) If a complaint concerns a particular consumer, the consumer may participate
43 in determining what course of action the Ombudsman should take on the consumer's

1 behalf. If the consumer has an opinion concerning a course of action, the Ombudsman
2 shall consider the consumer's opinion.

3 (c) Following receipt of a complaint, an Ombudsman shall contact the service
4 provider to allow the service provider the opportunity to respond, provide additional
5 information, or initiate action to resolve the complaint.

6 (d) Complaints or conditions adversely affecting consumers that cannot be
7 resolved in the manner described in subsection (a) of this section shall be referred by the
8 Ombudsman to the appropriate licensing agency under Article 2 of this Chapter.

9 **"§ 122C-17. State/Local Ombudsman; confidentiality.**

10 (a) Except as required by law, an Ombudsman shall not disclose the following:

11 (1) Any confidential or privileged information obtained pursuant to
12 §122C-15 unless the affected individual authorizes disclosure in
13 writing; or

14 (2) The name of anyone who has furnished information to an Ombudsman
15 unless the individual authorizes disclosure in writing.

16 (b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine
17 not to exceed five hundred dollars (\$500.00).

18 (c) All confidential or privileged information obtained under this section and the
19 names of persons providing information to an Ombudsman are exempt from disclosure
20 pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and
21 redisclosure of protected information shall be in compliance with federal confidentiality
22 laws protecting medical records.

23 **"§ 122C-18. State/Local Ombudsman; retaliation prohibited.**

24 No one shall discriminate or retaliate against any person, provider, or facility
25 because the person, provider, or facility in good faith complained or provided
26 information to an Ombudsman.

27 **"§ 122C-19. State/Local Ombudsman; immunity from liability.**

28 (a) The State and Local Ombudsman shall be immune from liability for the good
29 faith performance of official Ombudsman duties.

30 (b) A State or local program facility, its employees, and any other individual
31 interviewed by an Ombudsman are immune from liability for damages resulting from
32 disclosure of any information or documents to an Ombudsman pursuant to this Article.

33 **"§ 122C-20. State/Local Ombudsman; penalty for willful interference.**

34 Willful interference with the State or a Local Ombudsman in the performance of the
35 Ombudsman's official duties is a Class 1 misdemeanor."

36 **SECTION 1.6.(b)** There is appropriated from the General Fund to the
37 Department of Health and Human Services the sum of \$_____ for the 2001-2002
38 fiscal year and the sum of \$_____ for the 2002-2003 fiscal year to implement this
39 Section.

40 **SECTION 1.7.(a)** G.S. 122C-112(13) is repealed.

41 **SECTION 1.7.(b)** Part 1 of Article 3 of Chapter 143B is amended by adding
42 the following new section to read:

43 **"§ 143B-139.6A. Secretary's responsibilities regarding availability of early**
44 **intervention services.**

1 The Secretary of the Department of Health and Human Services shall ensure, in
2 cooperation with other appropriate agencies, that all types of early intervention services
3 specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the
4 federal early intervention legislation, are available to all eligible infants and toddlers
5 and their families to the extent funded by the General Assembly.

6 The Secretary shall coordinate and facilitate the development and administration of
7 the early intervention system for eligible infants and toddlers and shall assign among the
8 cooperating agencies the responsibility, including financial responsibility, for services.
9 The Secretary shall be advised by the Interagency Coordinating Council for Children
10 from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5,
11 and may enter into formal interagency agreements to establish the collaborative
12 relationships with the Department of Public Instruction, other appropriate agencies, and
13 other public and private service providers necessary to administer the system and
14 deliver the services.

15 The Secretary shall adopt rules to implement the early intervention system, in
16 cooperation with all other appropriate agencies."

17 **SECTION 1.8.(a)** G.S. 143B-147 reads as rewritten:

18 **"§ 143B-147. Commission for Mental Health, Developmental Disabilities, and**
19 **Substance Abuse Services – creation, powers and duties.**

20 (a) There is hereby created the Commission for Mental Health, Developmental
21 Disabilities, and Substance Abuse Services of the Department of Health and Human
22 Services with the power and duty to adopt, amend and repeal rules to be followed in the
23 conduct of State and local mental health, developmental disabilities, ~~alcohol and drug~~
24 ~~abuse~~ substance abuse programs including education, prevention, intervention,
25 ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment,
26 rehabilitation, continuing care, emergency services, case management, and other related
27 services. Such rules shall be designed to promote the amelioration or elimination of the
28 mental health, developmental disabilities, or ~~alcohol and drug abuse~~ substance abuse
29 problems of the citizens of this State. The Commission for Mental Health,
30 Developmental Disabilities, and Substance Abuse Services shall have the authority:

31 (1) To adopt rules regarding the

- 32 a. Admission, including the designation of regions, treatment, and
33 professional care of individuals admitted to a facility operated
34 under the authority of G.S. 122C-181(a), that is now or may be
35 established;
- 36 b. Operation of education, prevention, intervention, treatment,
37 rehabilitation and other related services as provided by area
38 mental health, developmental disabilities, and substance abuse
39 authorities under Part 4 of Article 4 and Part 4 of Article 3B of
40 Chapter 122C of the General Statutes;
- 41 c. Hearings and appeals of area mental health, developmental
42 disabilities, and substance abuse authorities as provided for in
43 Part 4 of Article 4 and Part 4 of Article 3B of Chapter 122C of
44 the General Statutes;

- 1 d. ~~Requirements of the federal government for grants in aid for~~
2 ~~mental health, developmental disabilities, alcohol or drug abuse~~
3 ~~programs which may be made available to local programs or the~~
4 ~~State. This section is to be liberally construed in order that the~~
5 ~~State and its citizens may benefit from such grants in aid; and~~
6 e. Implementation of single portal of entry and exit policies
7 established pursuant to Chapter 122C of the General
8 ~~Statutes.~~ Statutes; and
9 f. Standards of services for mental health, developmental
10 disabilities, and substance abuse services.
11 (2) To adopt rules for the licensing of facilities for the mentally ill,
12 developmentally disabled, and substance abusers, under Article 2 of
13 Chapter 122C of the General Statutes.
14 (3) To advise the Secretary of the Department of Health and Human
15 Services regarding the need for, provision and coordination of
16 education, prevention, intervention, treatment, rehabilitation and other
17 related services in the areas of:
18 a. Mental illness and mental health,
19 b. Developmental disabilities,
20 c. ~~Alcohol abuse, and~~ Substance abuse.
21 d. ~~Drug abuse;~~
22 (4) To review and advise the Secretary of the Department of Health and
23 Human Services regarding all State plans required by federal or State
24 law and to recommend to the Secretary any changes it thinks necessary
25 in those plans; provided, however, for the purposes of meeting State
26 plan requirements under federal or State law, the Department of Health
27 and Human Services is designated as the single State agency
28 responsible for administration of plans involving mental health,
29 developmental disabilities, ~~alcohol abuse, and drug abuse services;~~ and
30 substance abuse services;
31 (5) To adopt rules relating to the registration and control of the
32 manufacture, distribution, security, and dispensing of controlled
33 substances as provided by G.S. 90-100;
34 (6) To adopt rules to establish the professional requirements for staff of
35 licensed facilities for the mentally ill, developmentally disabled, and
36 substance abusers. Such rules may require that one or more, but not all
37 staff of a facility be either licensed or certified. If a facility has only
38 one professional staff, such rules may require that that individual be
39 licensed or certified. Such rules may include the recognition of
40 professional certification boards for those professions not licensed or
41 certified under other provisions of the General Statutes provided that
42 the professional certification board evaluates applicants on a basis
43 which protects the public health, safety or welfare;

1 (7) Except where rule making authority is assigned under that Article to
2 the Secretary of the Department of Health and Human Services, to
3 adopt rules to implement Article 3 of Chapter 122C of the General
4 Statutes;

5 (8) To adopt rules specifying procedures for waiver of rules adopted by
6 the Commission.

7 (b) All rules hereby adopted shall be consistent with the laws of this State and not
8 inconsistent with the management responsibilities of the Secretary of the Department of
9 Health and Human Services provided by this Chapter and the Executive Organization
10 Act of 1973.

11 (c) All rules and regulations pertaining to the delivery of services and licensing
12 of facilities heretofore adopted by the Commission for Mental Health and Mental
13 Retardation Services, controlled substances rules and regulations adopted by the North
14 Carolina Drug Commission, and all rules and regulations adopted by the Commission
15 for Mental Health, Mental Retardation and Substance Abuse Services shall remain in
16 full force and effect unless and until repealed or superseded by action of the
17 Commission for Mental Health, Developmental Disabilities, and Substance Abuse
18 Services.

19 (d) All rules adopted by the Commission for Mental Health, Developmental
20 Disabilities, and Substance Abuse Services shall be enforced by the Department of
21 Health and Human Services."

22 **SECTION 1.8.(b)** G.S. 122C-112(a) is amended by adding the following
23 new subdivision to read:

24 "(17) Adopt rules regarding the requirements of the federal government for
25 grants-in-aid for mental health, developmental disabilities, or
26 substance abuse programs which may be made available to local
27 programs or the State. This section shall be liberally construed in order
28 that the State and its citizens may benefit from the grants-in-aid."

29 **SECTION 1.8.(c)** G.S. 143B-148 reads as rewritten:

30 "**§ 143B-148. Commission for Mental Health, Developmental Disabilities, and**
31 **Substance Abuse Services – members; selection; quorum; compensation.**

32 (a) The Commission for Mental Health, Developmental Disabilities, and
33 Substance Abuse Services of the Department of Health and Human Services shall
34 consist of 26 members:

35 (1) Four of whom shall be appointed by the General Assembly, two upon
36 the recommendation of the Speaker of the House of Representatives,
37 and two upon the recommendation of the President Pro Tempore of the
38 Senate in accordance with G.S. 120-121. These members shall be
39 individuals who are concerned about the needs of individuals for
40 mental health, developmental disabilities, and substance abuse
41 services. ~~have concern for the problems of mental illness,~~
42 ~~developmental disabilities, alcohol and drug abuse.~~ Members shall
43 serve for two-year terms beginning July 1 of odd-numbered years.

- 1 Vacancies in appointments made by the General Assembly shall be
2 filled in accordance with G.S. 120-122;
- 3 (2) Twenty-two of whom shall be appointed by the Governor, one from
4 each congressional district in the State in accordance with G.S.
5 147-12(3)b, and 10 at-large members.
- 6 a. Of these 22 members, three shall have a special interest in
7 mental health, three shall have a special interest in mental
8 retardation, three shall have a special interest in developmental
9 disabilities other than mental retardation, three shall have a
10 special interest in alcohol abuse and alcoholism and three shall
11 have a special interest in drug abuse. Each group of three shall
12 be made up of one member who is a consumer representative;
13 one other who is a representative of a local or State citizen
14 organization or association; and one other who is a professional
15 in the field.
- 16 b. The remaining seven members shall be appointed from the
17 general public, other citizen groups, area mental health,
18 developmental disabilities, and substance abuse authorities, or
19 from other related agencies.
- 20 c. Of these 22 appointments, at least one shall be a licensed
21 physician and at least one other shall be a licensed attorney.
- 22 d. The Governor shall appoint members to the Commission in
23 accordance with the foregoing provisions. The terms of all
24 Commission members appointed by the Governor shall be four
25 years. The initial term of the person representing the 12th
26 Congressional District shall begin January 3, 1993, and expire
27 June 30, 1996. All Commission members shall serve their
28 designated terms and until their successors are duly appointed
29 and qualified. All Commission members may succeed
30 themselves.
- 31 (3) All appointments shall be made pursuant to current federal rules and
32 regulations, when not inconsistent with State law, which prescribe the
33 selection process and demographic characteristics as a necessary
34 condition to the receipt of federal aid.
- 35 (b) Except as otherwise provided in this section, the provisions of G.S. 143B-13
36 through 143B-20 relating to appointment, qualifications, terms and removal of members
37 shall apply to all members of the Commission for Mental Health, Developmental
38 Disabilities, and Substance Abuse Services.
- 39 (c) Commission members shall receive per diem, travel and subsistence
40 allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.
- 41 (d) A majority of the Commission shall constitute a quorum for the transaction of
42 business.
- 43 (e) All clerical and other services required by the Commission shall be supplied
44 by the Secretary of the Department of Health and Human Services."

1 **SECTION 1.9.** The Department of Health and Human Services shall do the
2 following to prepare for the certification of local programs to administer and deliver
3 mental health, developmental disabilities, and substance abuse services.

- 4 (1) Develop the State Plan for Mental Health, Developmental Disabilities,
5 and Substance Abuse Services in accordance with G.S. 122C-100.9.
6 Not later than January 1, 2002, the Department shall submit the State
7 Plan to the Joint Legislative Oversight Committee on Mental Health,
8 Developmental Disabilities, and Substance Abuse Services for its
9 review.
- 10 (2) Review all rules currently in effect and adopted by the Secretary, the
11 Commission for Mental Health, Developmental Disabilities, and
12 Substance Abuse Services and identify areas of duplication,
13 vagueness, or ambiguity in content or in application. In conducting this
14 review, the Department shall solicit input from current area programs
15 and providers on perceived problems with rules. The review may also
16 include review of rules pertaining to mental health, developmental
17 disabilities, and substance abuse services that are in effect and adopted
18 by agencies other than the Secretary and the Commission.
- 19 (3) Review the oversight and monitoring functions currently implemented
20 by the Department to determine the effectiveness of the activities in
21 achieving the intended results. Improve the oversight and monitoring
22 functions and activities, if necessary.
- 23 (4) Develop service standards, outcomes, and financing formula for core
24 and targeted services to prepare for their administration, financing, and
25 delivery by local programs.
- 26 (5) Establish criteria and operational procedures for the Quality Care
27 Ombudsman Program.
- 28 (6) Conduct an independent review of the Department's own readiness to
29 implement system reform.
- 30 (7) Develop a plan for phased-in implementation of local programs in
31 accordance with this act. This plan should anticipate receiving letters
32 of intent by July 1, 2002, and implementation in Group I counties not
33 later than July 1, 2003, Group II counties not later than July 1, 2004,
34 Group III counties not later than July 1, 2005, and all counties not later
35 than July 1, 2006.
- 36 (8) Develop format and content requirements for local business plans and
37 methods for Department evaluation of the local business plans.
- 38 (9) Develop a plan to conduct readiness reviews of local programs upon
39 their application for certification.

40 The activities required under subdivisions (1) through (4) of this section shall be
41 completed by December 1, 2001. On or before October 1, 2001, and quarterly
42 thereafter, the Department shall submit a progress report on each of the activities
43 required under this section. By December 1, 2001, the Department shall submit a final
44 report on each of the activities required under subdivisions (1) through (4) of this

1 section. The Department shall make its reports to the Joint Legislative Oversight
2 Committee on Mental Health, Developmental Disabilities, and Substance Abuse
3 Services.

4 **SECTION 1.10.(a)** Not later than September 1, 2001, each area mental
5 health, developmental disabilities, and substance abuse authority in this State shall
6 provide to the Department of Health and Human Services the most recent data
7 describing with specificity all of the following:

8 (1) Financial statement indicating the nature and value of assets, liabilities,
9 and other outstanding debt or other financial obligations of the area
10 authority.

11 (2) The entity that holds title to all real and personal property used by the
12 area authority to provide or administer mental health, developmental
13 disabilities, and substance abuse services.

14 **SECTION 1.10.(b)** Not later than December 1, 2001, the Department of
15 Health and Human Services shall make recommendations to the Joint Legislative
16 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
17 Abuse Services on how the assets and liabilities of area authorities should be transferred
18 or otherwise distributed when counties assume responsibility for area program
19 governance and services. The recommendation shall include necessary enabling
20 legislation.

21 **SECTION 1.10.(c)** The Joint Legislative Oversight Committee on Mental
22 Health, Developmental Disabilities, and Substance Abuse Services shall consider the
23 disposition of area authority assets, liabilities, and other financial obligations when
24 counties assume responsibility for area program governance and services as enacted in
25 this act. In considering this issue, the Committee shall review the recommendations of
26 the Department submitted pursuant to subsection (b) of this section, and any other
27 recommendations submitted by counties, area authorities, or other interested persons.
28 The Committee shall report its findings and recommendations, including necessary
29 enabling legislation, to the 2001 General Assembly, Regular Session 2002, upon its
30 convening.

31 **SECTION 1.11.** Rules adopted by the Secretary of Health and Human
32 Services and the Commission for Mental Health, Developmental Disabilities, and
33 Substance Abuse Services shall be adopted in accordance with Chapter 150B of the
34 General Statutes.

35 36 **PART 2. CONFORMING STATUTORY CHANGES**

37
38 **SECTION 2.1.(a)** G.S. 7B-904(c) reads as rewritten:

39 "(c) At the dispositional hearing or a subsequent hearing in the case of a juvenile
40 who has been adjudicated abused, neglected, or dependent, the court may determine
41 whether the best interests of the juvenile require that the parent, guardian, custodian,
42 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
43 juvenile's care undergo psychiatric, psychological, or other treatment or counseling
44 directed toward remediating or remedying behaviors or conditions that led to or

1 contributed to the juvenile's adjudication or to the court's decision to remove custody of
2 the juvenile from the parent, guardian, custodian, stepparent, adult member of the
3 juvenile's household, or adult relative entrusted with the juvenile's care. If the court
4 finds that the best interests of the juvenile require the parent, guardian, custodian,
5 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
6 juvenile's care undergo treatment, it may order that individual to comply with a plan of
7 treatment approved by the court or condition legal custody or physical placement of the
8 juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's
9 household, or adult relative entrusted with the juvenile's care upon that individual's
10 compliance with the plan of treatment. The court may order the parent, guardian,
11 custodian, stepparent, adult member of the juvenile's household, or adult relative
12 entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this
13 subsection. In cases in which the court has conditioned legal custody or physical
14 placement of the juvenile with the parent, guardian, custodian, stepparent, adult member
15 of the juvenile's household, or adult relative entrusted with the juvenile's care upon
16 compliance with a plan of treatment, the court may charge the cost of the treatment to
17 the county of the juvenile's residence if the court finds the parent, guardian, custodian,
18 stepparent, adult member of the juvenile's household, or adult relative entrusted with the
19 juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court
20 finds the parent, guardian, custodian, stepparent, adult member of the juvenile's
21 household, or adult relative entrusted with the juvenile's care is unable to pay the cost of
22 the treatment ordered pursuant to this subsection, the court may order that individual to
23 receive treatment currently available from the area mental health program that serves
24 the parent's catchment ~~area~~area, or the local program as defined in G.S. 122C-3 that
25 serves the parent's local program service area."

26 **SECTION 2.1.(b)** G.S. 7B-1407(b) reads as rewritten:

27 "(b) Each Local Team shall consist of the following persons:

- 28 (1) The director of the county department of social services and a member
29 of the director's staff;
- 30 (2) A local law enforcement officer, appointed by the board of county
31 commissioners;
- 32 (3) An attorney from the district attorney's office, appointed by the district
33 attorney;
- 34 (4) The executive director of the local community action agency, as
35 defined by the Department of Health and Human Services, or the
36 executive director's designee;
- 37 (5) The superintendent of each local school administrative unit located in
38 the county, or the superintendent's designee;
- 39 (6) A member of the county board of social services, appointed by the
40 chair of that board;
- 41 (7) A local mental health professional, appointed by the director of the
42 area authority or local program established under Chapter 122C of the
43 General Statutes;
- 44 (8) The local guardian ad litem coordinator, or the coordinator's designee;

- 1 (9) The director of the local department of public health; and
2 (10) A local health care provider, appointed by the local board of health."

3 **SECTION 2.1.(c)** G.S. 7B-2702(d) reads as rewritten:

4 "(d) In cases in which the court has ordered the parent of the juvenile to comply
5 with or undergo evaluation or treatment, the court may order the parent to pay the cost
6 of evaluation or treatment ordered pursuant to this subsection. In cases in which the
7 court has conditioned legal custody or physical placement of the juvenile with the
8 parent upon the parent's compliance with a plan of evaluation or treatment, the court
9 may charge the cost of the evaluation or treatment to the county of the juvenile's
10 residence if the court finds the parent is unable to pay the cost of the evaluation or
11 treatment. In all other cases, if the court finds the parent is unable to pay the cost of the
12 evaluation or treatment ordered pursuant to this subsection, the court may order the
13 parent to receive evaluation or treatment currently available from the area mental health
14 program that serves the parent's catchment ~~area~~. area or the local program as defined in
15 G.S. 122C-3 that serves the parent's local program service area."

16 **SECTION 2.2.** G.S. 14-250 reads as rewritten:

17 **"§ 14-250. Publicly owned vehicle to be marked.**

18 It shall be the duty of the executive head of every department of the State
19 government, and of any county, or of any institution or agency of the State, to have
20 painted on every motor vehicle owned by the State, or by any county, or by any
21 institution or agency of the State, a statement that such car belongs to the State or to
22 some county, or institution or agency of the State. Provided, however, that no
23 automobile used by any county officer or county official for the purpose of transporting,
24 apprehending or arresting persons charged with violations of the laws of the State of
25 North Carolina, shall be required to be lettered. Provided, further, that in lieu of the
26 above method of marking motor vehicles owned by any agency or department of the
27 State government, it shall be deemed a compliance with the law if such vehicles have
28 imprinted on the license tags thereof, above the license number, the words "State
29 Owned" and that such vehicles have affixed to the front thereof a plate with the
30 statement "State Owned". Provided, further, that in lieu of the above method of marking
31 vehicles owned by any county, it shall be deemed a compliance with the law if such
32 vehicles have painted or affixed on the side thereof a circle not less than eight inches in
33 diameter showing a replica of the seal of such county. Provided, further, that no
34 county-owned motor vehicle used for transporting day or residential facility clients of
35 area mental health, developmental disabilities, and substance abuse authorities
36 established under Article 4 of Chapter 122C of the General Statutes or local programs
37 established under Article 3B of Chapter 122C of the General Statutes shall be required
38 to be lettered; provided, further, notwithstanding this sentence, each vehicle shall bear
39 the distinctive permanent registration plate pursuant to G.S. 20-84. Provided, further,
40 that in lieu of the above method of marking vehicles owned by the State and
41 permanently assigned to members of the Council of State, it shall be deemed a
42 compliance with the law if such vehicles have imprinted on the license tags thereof the
43 license number assigned to the appropriate member of the Council of State pursuant to
44 G.S. 20-81(4); a member of the Council of State shall not be assessed any registration

1 fee if he elects to have a State-owned motor vehicle assigned to him designated by his
2 official plate number.

3 The General Assembly may authorize exemptions from the provisions of this section
4 for each fiscal year. Each agency shall submit requests for private tags to the Division of
5 Motor Fleet Management of the Department of Administration. The Division shall
6 report the requests to the Appropriations Committees of the General Assembly by June
7 1."

8 **SECTION 2.3.** G.S. 62-289.3 reads as rewritten:

9 **"§ 62-289.3. Definitions.**

10 As used in this Article:

- 11 (1) 'Human service agency' means any charitable or governmental agency
12 including, but not limited to: county departments of social services,
13 local programs as defined in G.S. 122C-3, area mental health, mental
14 retardation or substance abuse authorities, local health departments,
15 councils on aging, community action agencies, sheltered workshops,
16 group homes and State residential institutions.
- 17 (2) 'Human service transportation' means motor vehicle transportation
18 provided on a nonprofit basis by a human service agency for the
19 purpose of transporting clients or recipients in connection with
20 programs sponsored by the agency. "Human service transportation"
21 shall also mean motor vehicle transportation provided by for-profit
22 persons under exclusive contract with a human service agency for the
23 transportation of clients or recipients, and such provider shall also
24 qualify as a human service agency for the purpose of motor vehicle
25 registration during the term of the contract. The motor vehicle may be
26 owned, leased, borrowed, or contracted for use by or from the human
27 service agency.
- 28 (3) 'Nonprofit' as applied to human service transportation means motor
29 vehicle transportation provided at cost.
- 30 (4) 'Person' means an individual, corporation, company, association,
31 partnership or other legal entity.
- 32 (5) 'Volunteer transportation' means motor vehicle transportation provided
33 by any person under the direction, sponsorship, or supervision of a
34 human service agency. The person may receive an allowance to defray
35 the actual cost of operating the vehicle but shall not receive any other
36 compensation."

37 **SECTION 2.4.** G.S. 90-96.01(a) reads as rewritten:

38 "(a) The Commission for Mental Health, Developmental Disabilities, and
39 Substance Abuse Services shall establish standards and guidelines for the curriculum
40 and operation of local drug education programs. The Department of Health and Human
41 Services shall oversee the development of a statewide system of schools and shall insure
42 that schools are available in all localities of the State as soon as is practicable.

- 43 (1) A fee of one hundred fifty dollars (\$150.00) shall be paid by all
44 persons enrolling in an accredited drug education school established

1 pursuant to this section. That fee must be paid to an official designated
2 for that purpose and at a time and place specified by the area mental
3 health, developmental disabilities, and substance abuse authority or the
4 local program as defined in G.S. 122C-3 providing the course of
5 instruction in which the person is enrolled. If the clerk of court in the
6 county in which the person is convicted agrees to collect the fees, the
7 clerk shall collect all fees for persons convicted in that county. The
8 clerk shall pay the fees collected to the area mental health,
9 developmental disabilities, and substance abuse authority or the local
10 program, as applicable, for the catchment or program service area
11 where the clerk is located regardless of the location where the
12 defendant attends the drug education school and that authority or local
13 program shall distribute the funds in accordance with the rules and
14 regulations of the Department. The fee must be paid in full within two
15 weeks of the date the person is convicted and before he attends any
16 classes, unless the court, upon a showing of reasonable hardship,
17 allows the person additional time to pay the fee or allows him to begin
18 the course of instruction without paying the fee. If the person enrolling
19 in the school demonstrates to the satisfaction of the court that ordered
20 him to enroll in the school that he is unable to pay and his inability to
21 pay is not willful, the court may excuse him from paying the fee.
22 Parents or guardians of persons attending drug education school shall
23 be allowed to audit the drug education school along with their children
24 or wards at no extra expense.

25 (2) The Department of Health and Human Services shall have the
26 authority to approve programs to be implemented by area mental
27 health, developmental disabilities, and substance abuse ~~authorities.~~
28 authorities or local programs. Area mental health, developmental
29 disabilities, and substance abuse authorities or local programs may
30 subcontract for the delivery of drug education program services. The
31 Department shall have the authority to approve budgets and contracts
32 with public and private governmental and nongovernmental bodies for
33 the operation of such schools.

34 (3) Fees collected under this section and retained by the area mental
35 health, developmental disabilities, and substance abuse authority or the
36 local program shall be placed in a nonreverting fund. That fund must
37 be used, as necessary, for the operation, evaluation and administration
38 of the drug educational schools; excess funds may only be used to fund
39 other ~~drug or alcohol~~ substance abuse programs. The area mental
40 health, developmental disabilities, and substance abuse authority or
41 local program shall remit five percent (5%) of each fee collected to the
42 Department of Health and Human Services on a monthly basis. Fees
43 received by the Department as required by this section may only be

1 used in supporting, evaluating, and administering drug education
2 schools, and any excess funds will revert to the General Fund.

- 3 (4) All fees collected by any area mental health, developmental
4 disabilities, and substance abuse authority or local program under the
5 authority of this section may not be used in any manner to match other
6 State funds or be included in any computation for State
7 formula-funded allocations."

8 **SECTION 2.5.** G.S. 90-332.1(a)(8) reads as rewritten:

9 "(a) It is not the intent of this Article to regulate members of other regulated
10 professions who do counseling in the normal course of the practice of their profession.
11 Accordingly, this Article does not apply to:

12 ...

- 13 (8) Any person performing counseling solely as an employee of an area
14 ~~facility, facility or local program facility, as defined in G.S. 122C-~~
15 ~~3(14)a., those terms are defined in G.S. 122C-3(14),~~ if both of the
16 following apply:

- 17 a. The services are provided by (i) a qualified professional as
18 defined in G.S. 122C-3(31) and subject to the rules adopted by
19 the Commission for Mental Health, Developmental Disabilities,
20 and Substance Abuse Services, or (ii) an employee supervised
21 by a qualified professional as defined in G.S. 122C-3(31);
22 b. The area facility or local program facility has obtained written
23 verification from the following boards that the employee has
24 not had his or her license, registration, or certification revoked,
25 rescinded, or suspended: the North Carolina Board of Licensed
26 Professional Counselors, the North Carolina State Board of
27 Examiners of Practicing Psychologists, the North Carolina
28 Certification Board for Social Work, and the North Carolina
29 Marital and Family Therapy Certification Board;".

30 **SECTION 2.6.(a)** G.S. 108A-25.2 reads as rewritten:

31 "**§ 108A-25.2. Exemption from limitations for individuals convicted of certain**
32 **drug-related felonies.**

33 Individuals convicted of Class H or I controlled substance felony offenses in this
34 State shall be eligible to participate in the Work First Program and food stamp program:

- 35 (1) Six months after release from custody if no additional controlled
36 substance felony offense is committed during that period and
37 successful completion of or continuous active participation in a
38 required substance abuse treatment program determined appropriate by
39 the area mental health ~~authority;~~ authority or local program; or
40 (2) If not committed to custody, six months after the date of conviction if
41 no additional controlled substance felony offense is committed during
42 that period and successful completion of or continuous active
43 participation in a required substance abuse treatment program

1 determined appropriate by the area mental health ~~authority~~authority or
2 local program.

3 A county department of social services shall require individuals who are eligible for
4 Work First Program assistance and food stamp benefits pursuant to this section to
5 undergo substance abuse treatment as a condition for receiving Work First Program or
6 food stamp benefits, if funds and programs are available and to the extent allowed by
7 federal law."

8 **SECTION 2.6.(b)** G.S. 108A-27.3(c) reads as rewritten:

9 "(c) The county board of commissioners shall appoint a committee of individuals
10 to identify the needs of the population to be served and to review and assist in
11 developing the County Plan to respond to the needs. The committee membership shall
12 include, but is not limited to, representatives of the county board of social services, the
13 board of the area mental health ~~authority~~authority or local program, the local public
14 health board, the local school systems, the business community, the board of county
15 commissioners and community-based organizations representative of the population to
16 be served."

17 **SECTION 2.6.(c)** G.S. 108A-27.6(c) reads as rewritten:

18 "(c) The county board of commissioners shall appoint a committee of individuals
19 to identify the needs of the population to be served and to review and assist in
20 developing the County Plan to respond to the needs. The committee membership shall
21 include, but is not limited to, representatives of the county board of social services, the
22 board of the area mental health ~~authority~~authority or the local program board as
23 defined in G.S. 122C-3, the local public health board, the local school systems, the
24 business community, the board of county commissioners, and community-based
25 organizations representative of the population to be served."

26 **SECTION 2.6.(d)** G.S. 108A-29.1(e) reads as rewritten:

27 "(e) Area mental health ~~authorities~~ or local programs organized pursuant to
28 ~~Article 4 of Chapter 122C of the General Statutes~~ shall be responsible for administering
29 the provisions of this section."

30 **SECTION 2.6.(e)** G.S. 108A-103(b) reads as rewritten:

31 "(b) The staff and physicians of local health departments, area mental health,
32 developmental disabilities, and substance abuse ~~authorities~~authorities or local
33 programs, and other public or private agencies shall cooperate fully with the director in
34 the performance of his duties. These duties include immediate accessible evaluations
35 and in-home evaluations where the director deems this necessary."

36 **SECTION 2.7.** G.S. 120-217(a)(2) reads as rewritten:

37 "(2) Eleven members appointed by the President Pro Tempore of the
38 Senate, as follows:

- 39 a. Four shall be members of the Senate at the time of their
40 appointment,
- 41 b. One shall be the director of a mental health area ~~authority~~authority,
42 and one shall be the director of a local program,
- 43 c. One shall be a representative of the Association of County
44 Commissioners,

- 1 d. One shall be a representative of the general public who has
2 knowledge of issues relating to children and youth,
3 e. One shall be a licensed attorney whose practice includes the
4 representation of parents accused of criminal or civil abuse or
5 neglect, and
6 f. One shall be a chief district court judge recommended by the
7 Council of Chief District Judges.
8 g. One shall be a representative from the North Carolina Child
9 Advocacy Institute.
10 h. One shall be a representative from the North Carolina Child
11 Fatality Task Force."

12 **SECTION 2.8.** G.S. 126-5(a) reads as rewritten:

13 "(a) The provisions of this Chapter shall apply to:

- 14 (1) All State employees not herein exempt, and
15 (2) To all employees of the following local entities:
16 a. Area mental health, developmental disabilities, and substance
17 abuse ~~authorities~~authorities and local programs.
18 b. Local social services departments.
19 c. Local public health departments.
20 d. Local emergency management agencies that receive federal
21 grant-in-aid funds.

22 An employee of a consolidated county human services agency created
23 pursuant to G.S. 153A-77(b) is not considered an employee of an
24 entity listed in this subdivision.

- 25 (3) County employees not included under subdivision (2) of this
26 subsection as the several boards of county commissioners may from
27 time to time determine."

28 **SECTION 2.9.** G.S. 131E-184(c) reads as rewritten:

29 "(c) The Department shall exempt from certificate of need review any conversion
30 of existing acute care beds to psychiatric beds provided:

- 31 (1) The hospital proposing the conversion has executed a contract with the
32 Department's Division of Mental Health, Developmental Disabilities,
33 and Substance Abuse Services and/or one or more of the Area Mental
34 Health, Developmental Disabilities, and Substance Abuse ~~Authorities~~
35 Authorities or an administering county as defined in G.S. 122C-3 to
36 provide psychiatric beds to patients referred by the contracting agency
37 or agencies; and
38 (2) The total number of beds to be converted shall not be more than twice
39 the number of beds for which the contract pursuant to subdivision (1)
40 of this subsection shall provide."

41 **SECTION 2.10.** G.S. 135-40.7B(b) reads as rewritten:

42 "(b) Notwithstanding any other provision of this Part, the following necessary
43 services for the care and treatment of chemical dependency and mental illness shall be
44 covered under this section: allowable institutional and professional charges for inpatient

1 care, outpatient care, intensive outpatient program services, partial hospitalization
2 treatment, and residential care and treatment:

3 (1) For mental illness treatment:

- 4 a. Licensed psychiatric hospitals;
5 b. Licensed psychiatric beds in licensed general hospitals;
6 c. Licensed residential treatment facilities;
7 d. Area Mental Health, Developmental Disabilities, and Substance
8 Abuse Authorities;
9 e. Licensed intensive outpatient treatment programs; ~~and~~
10 f. Licensed partial hospitalization ~~programs~~ programs; and
11 g. Local programs as defined in G.S. 122C-3."

12 (2) For chemical dependency treatment:

- 13 a. Licensed chemical dependency units in licensed psychiatric
14 hospitals;
15 b. Licensed chemical dependency hospitals;
16 c. Licensed chemical dependency treatment facilities;
17 d. Area Mental Health, Developmental Disabilities, and Substance
18 Abuse Authorities;
19 e. Licensed intensive outpatient treatment programs;
20 f. Licensed partial hospitalization programs; ~~and~~
21 g. Medical detoxification facilities or ~~units~~ units; and
22 h. Local programs as defined in G.S. 122C-3."

23 **SECTION 2.11.** G.S. 143B-152.6 reads as rewritten:

24 **"§ 143B-152.6. Cooperation of State and local agencies.**

25 All agencies of the State and local government, including the Department of
26 Juvenile Justice and Delinquency Prevention, departments of social services, health
27 departments, local mental health, ~~mental-retardation,~~ developmental disabilities, and
28 substance abuse authorities local programs as defined in G.S. 122C-3, court personnel,
29 law enforcement agencies, The University of North Carolina, the community college
30 system, and cities and counties, shall cooperate with the Department of Health and
31 Human Services, and local nonprofit corporations that receive grants in coordinating the
32 program at the State level and in implementing the program at the local level. The
33 Secretary of Health and Human Services, after consultation with the Superintendent of
34 Public Instruction, shall develop a plan for ensuring the cooperation of State agencies
35 and local agencies, and encouraging the cooperation of private entities, especially those
36 receiving State funds, in the coordination and implementation of the program."

37 **SECTION 2.12.** G.S. 143B-152.14 reads as rewritten:

38 **"§ 143B-152.14. Cooperation of State and local agencies.**

39 All agencies of the State and local government, including the Department of
40 Juvenile Justice and Delinquency Prevention, departments of social services, health
41 departments, local mental health, ~~mental-retardation,~~ developmental disabilities, and
42 substance abuse authorities, local programs as defined in G.S. 122C-3, court personnel,
43 law enforcement agencies, The University of North Carolina, the community college
44 system, and cities and counties, shall cooperate with the Department of Health and

1 Human Services, and local nonprofit corporations that receive grants in coordinating the
2 program at the State level and in implementing the program at the local level. The
3 Secretary of Health and Human Services, after consultation with the Superintendent of
4 Public Instruction, shall develop a plan for ensuring the cooperation of State agencies
5 and local agencies and encouraging the cooperation of private entities, especially those
6 receiving State funds, in the coordination and implementation of the program."

7 **SECTION 2.13.** G.S. 122C-181 reads as rewritten:

8 "**§ 122C-181. Secretary's jurisdiction over State facilities.**

9 (a) Except as provided in subsection (b) of this section, the Secretary shall
10 operate the following facilities:

11 (1) For the mentally ill:

- 12 a. Cherry Hospital;
- 13 b. Dorothea Dix Hospital;
- 14 c. John Umstead Hospital; and
- 15 d. Broughton Hospital; and

16 (2) For the mentally retarded:

- 17 a. Caswell Center;
- 18 b. O'Berry Center;
- 19 c. Murdoch Center;
- 20 d. Western Carolina Center; and
- 21 e. Black Mountain Center; and

22 (3) For substance abusers:

- 23 a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at
24 Greenville; and
- 25 ~~b. Alcohol and Drug Abuse Treatment Center at Butner; and~~
- 26 Julian F. Keith Alcohol and Drug Abuse Treatment Center ~~at~~
27 ~~Black Mountain; Center; and~~

28 (4) As special care facilities:

- 29 a. ~~Wilson~~ North Carolina Special Care Center;
- 30 b. Whitaker School; and
- 31 ~~Wright School; and~~ Wright School.
- 32 ~~d. Butner Adolescent Treatment Center.~~

33 (b) The Secretary may, with the approval of the Governor and Council of State,
34 close any State facility."
35

36 **PART 3. EFFECTIVE DATE**

37

38 **SECTION 3.** Sections 1.1 through 1.6(a) and 2.1 through 2.12 of this act
39 become effective July 1, 2002, except that these sections become effective only if the
40 2001 General Assembly has enacted legislation necessary to authorize or otherwise
41 provide for the lawful distribution of assets, liabilities, and other financial obligations of
42 area authorities upon their dissolution. Section 1.6(b) of this act becomes effective July
43 1, 2001. The remainder of this act is effective when it becomes law.