

## House Bill 86

By: Representatives Benton of the 31<sup>st</sup>, Dempsey of the 13<sup>th</sup>, and England of the 116<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to  
2 services for the aging, so as to provide for the transfer of the Division of Aging Services to  
3 the Georgia Adult and Aging Services Agency; to provide for definitions; to provide for the  
4 Georgia Adult and Aging Services Board; to provide for membership, powers, and duties;  
5 to provide for an executive director; to provide for transfer of rights, duties, and obligations;  
6 to amend various provisions of the Official Code of Georgia Annotated so as to make  
7 conforming changes; to provide for legislative findings; to provide for related matters; to  
8 provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 The General Assembly finds that:

- 12 (1) Georgia has the eleventh fastest growing population in the United States of individuals  
13 60 years of age and older;
- 14 (2) Georgia has the tenth fastest growing population in the United States of individuals 85  
15 years of age and older; and
- 16 (3) Georgia's population of individuals 60 years of age and older is expected to increase  
17 by 65 percent from 2010 to 2030.

18 style="text-align:center">**SECTION 2.**

19 Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to services for the  
20 aging, is amended by adding new Code sections to read as follows:

21 "49-6-1.1.

22 As used in this article, the term:

- 23 (1) 'Agency' means the Georgia Adult and Aging Services Agency.
- 24 (2) 'Board' means the Georgia Adult and Aging Services Board.
- 25 (3) 'Director' means the executive director of the agency.

26 49-6-1.2.

27 (a) There is created the Georgia Adult and Aging Services Board. The board shall consist  
28 of seven members who work or have worked in the area of adult or aging services, who are  
29 recipients of adult or aging services, or who are eligible to receive services provided by the  
30 agency; provided, however, that two members shall be individuals who are 60 years of age  
31 or older.

32 (b) The members of the board shall be appointed as follows: three members shall be  
33 appointed by the Governor, two members shall be appointed by the Speaker of the House  
34 of Representatives, and two members shall be appointed by the Lieutenant Governor. The  
35 first members shall be appointed to take office on July 1, 2015, for initial terms as follows:  
36 three such members shall be appointed for terms of one year, two such members shall be  
37 appointed for terms of two years, and two such members shall be appointed for terms of  
38 three years. Thereafter, the successors shall be appointed by the respective appointing  
39 authority upon the expiration of the respective terms of office for terms of three years. All  
40 such members shall serve until their successors are appointed and qualified. Such members  
41 shall be eligible for reappointment to successive terms of office as members of the board.

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

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

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

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

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

58 (h) The board shall approve policies to be implemented by the agency.

59 49-6-1.3.

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

63 49-6-1.4.

64 (a) The Georgia Adult and Aging Services Agency is created and established to perform  
 65 the functions and assume the duties, powers, and authority exercised by the former  
 66 Division of Aging Services within the Department of Human Services on June 30, 2015.  
 67 On July 1, 2015, the powers, functions, duties, programs, institutions, and authority of the  
 68 agency relating to the former Division of Aging Services within the Department of Human  
 69 Services shall be transferred to the agency pursuant to this article.

70 (b) The agency shall be assigned to the Department of Community Health for  
 71 administrative purposes only, as prescribed in Code Section 50-4-3 except that the agency  
 72 shall not be subject to paragraph (2) of subsection (a) and paragraph (4) of subsection (b)  
 73 of such Code section providing for budget submission through the department. The agency  
 74 shall submit its budget separately and directly to the Governor and the General Assembly."

75 **SECTION 3.**

76 Said chapter is further amended by revising Code Section 49-6-5, relating to the creation of  
 77 the Division of Aging Services within the department, as follows:

78 "49-6-5.

79 (a) The agency shall succeed to all rules, regulations, policies, procedures, and  
 80 administrative orders of the Department of Human Services which are in effect on June 30,  
 81 2015, and which relate to the functions of the former Division of Aging Services. Such  
 82 rules, regulations, policies, procedures, and administrative orders shall remain in effect  
 83 until amended, repealed, superseded, or nullified by proper authority or as otherwise  
 84 provided by law.

85 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 86 agreements, and other transactions entered into before July 1, 2015, by the Department of  
 87 Human Services or the Division of Aging Services pertaining to the Division of Aging  
 88 Services shall continue to exist, and none of such rights, privileges, entitlements, and duties  
 89 is impaired or diminished by reason of the transfer of the functions to the agency provided  
 90 for in this article. In all such instances, the agency shall be substituted for the Department  
 91 of Human Services or the Division of Aging Services, and the agency shall succeed to the  
 92 rights, privileges, entitlements, and duties under such contracts, leases, agreements, and  
 93 other transactions.

94 (c) All persons employed by the Division of Aging Services who, on June 30, 2015, are  
 95 engaged in the performance of a function or duty which is transferred to the agency as of  
 96 July 1, 2015, by this article shall be automatically transferred to the agency on July 1, 2015.  
 97 An equivalent number of positions or funds of the Department of Human Services which  
 98 provide administrative support to the Division of Aging Services shall be transferred to the  
 99 agency on July 1, 2015. Such persons shall be subject to the employment practices and  
 100 policies of the agency on and after July 1, 2015, but the compensation and benefits of such  
 101 transferred employees shall not be reduced. Employees who are subject to the rules of the  
 102 State Personnel Board and who are transferred to the agency shall retain all existing rights  
 103 under such rules. Accrued annual and sick leave shall be retained by such employees as  
 104 employees of the agency.

105 (d) On July 1, 2015, the agency shall receive custody of any state owned property in the  
 106 custody of the Department of Human Services on June 30, 2015, which pertains to the  
 107 functions transferred from the Division of Aging Services to the agency.

108 ~~The Division of Aging Services, administratively established previously within the~~  
 109 ~~department, is statutorily established. The Division of Aging Services established by this~~  
 110 ~~Code section shall have those functions, duties, powers, and responsibilities heretofore~~  
 111 ~~assigned by the board and the commissioner and as hereafter so assigned or as provided by~~  
 112 ~~law."~~

#### 113 SECTION 4.

114 Said chapter is further amended by revising Code Section 49-6-61, relating to definitions  
 115 regarding community care and services for the elderly, as follows:

116 "49-6-61.

117 As used in this article, the term:

118 (1) ~~'Aging section' means the single organizational unit within the Department of Human~~  
 119 ~~Services responsible for the planning and administration of services under the Older~~  
 120 ~~Americans Act of 1965. 'Agency' means the Georgia Adult and Aging Services Agency.~~

121 (2) ~~'Department' means the Department of Human Services.~~

122 (3)(2) 'Functionally impaired elderly person' means any person 60 years of age or older  
 123 with physical or mental limitations that restrict individual ability to perform the normal  
 124 activities of daily living and which impede individual capacity to live independently.

125 (4)(3) The 'Georgia Medical Assistance Act of 1977' means Article 7 of Chapter 4 of this  
 126 title.

127 (5)(4) 'Lead agency' means one or more agencies designated by the ~~Department of~~  
 128 ~~Human Services~~ Georgia Adult and Aging Services Agency to assess services needed by  
 129 functionally impaired elderly persons, to coordinate and provide community care services

130 to those persons, provide case management, and, where necessary, subcontract with  
 131 providers of service. A lead agency shall be either a private nonprofit entity or any public  
 132 entity, including but not limited to any organizational unit of the department Georgia  
 133 Adult and Aging Services Agency.

134 ~~(6)~~(5) 'Older Americans Act of 1965' means P.L. 92-258, as amended, on July 1, 1982."

135 **SECTION 5.**

136 Said chapter is further amended by revising paragraph (4) of Code Section 49-6-72, relating  
 137 to definitions regarding the "Georgia Family Caregiver Support Act," as follows:

138 "(4) ~~'Department' means the Department of Human Services.~~ Reserved."

139 **SECTION 6.**

140 Said chapter is further amended by striking "department" wherever such term occurs in the  
 141 following Code sections and inserting in its place "agency":

142 (1) Code Section 31-8-50, relating to long-term care ombudsman program declaration of  
 143 policy;

144 (1.1) Code Section 31-8-63, relating to state ombudsman rules and regulations;

145 (2) Code Section 49-6-2, relating to the designated agency for federal programs;

146 (3) Code Section 49-6-3, relating to the powers of the department;

147 (4) Code Section 49-6-4, relating to acceptance of federal and other grants;

148 (5) Code Section 49-6-6, relating to annual report;

149 (6) Code Section 49-6-21, relating to duties and powers of council;

150 (7) Code Section 49-6-22, relating to staff and facilities;

151 (8) Code Section 49-6-40, relating to the creation of the Silver-Haired Legislature;

152 (9) Code Section 49-6-62, relating to the establishment of community care unit;

153 (10) Code Section 49-6-63, relating to the establishment of community care service  
 154 system;

155 (11) Code Section 49-6-64, relating to adoption of rules and regulations;

156 (12) Code Section 49-6-73, relating to eligibility for benefits;

157 (13) Code Section 49-6-74, relating to provision of services; and

158 (14) Code Section 49-6-77, relating to rules and regulations.

159 **SECTION 7.**

160 Code Section 49-1-7 of the Official Code of Georgia Annotated, relating to home delivered  
 161 meals, transportation, services for the elderly, and preschool children with special needs trust,  
 162 is amended by adding a new subsection to read as follows:

163 "(a.1) As used in this Code section, the term 'department' means the Georgia Adult and  
 164 Aging Services Agency."

165 **SECTION 8.**

166 The following Code sections of the Official Code of Georgia Annotated are amended by  
 167 striking "Division of Aging Services", "Division of Aging Services within the Department  
 168 of Human Services", "Division of Aging Services of the department", "Division of Aging  
 169 Services of the Department of Human Services", "Department of Human Resources (now  
 170 known as the Department of Human Services)", or "department through the Division of  
 171 Aging Services" wherever such terms occur and inserting in their place "Georgia Adult and  
 172 Aging Services Agency":

- 173 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
 174 assistance with respect to unfair or deceptive practices toward the elderly;
- 175 (2) Code Section 29-10-3, relating to qualifications and requirements of public guardians;
- 176 (3) Code Section 29-10-4, relating to registration of public guardians;
- 177 (4) Code Section 29-10-10, relating to compensation of public guardians;
- 178 (5) Code Section 29-10-11, relating to appropriation of funds for compensation of public  
 179 guardians in certain circumstances;
- 180 (6) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and Elder  
 181 Persons Protection Act";
- 182 (7) Code Section 31-8-302, relating to the composition of the Georgia Alzheimer's and  
 183 Related Dementias State Plan Task Force;
- 184 (8) Code Section 31-8-303, relating to meetings of the task force;
- 185 (9) Code Section 37-1-27, relating to legislative findings of the Suicide Prevention  
 186 Program;
- 187 (10) Code Section 49-1-7, relating to home delivered meals, transportation, services for  
 188 the elderly, and preschool children with special needs trust;
- 189 (11) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
 190 Long-term Care Partnership Program;
- 191 (12) Code Section 49-6-20, relating to the creation of the Council on Aging;
- 192 (13) Code Section 49-6-60, relating to legislative intent regarding community care and  
 193 services for the elderly;
- 194 (14) Code Section 49-6-71, relating to purpose of the "Georgia Family Caregiver Support  
 195 Act";
- 196 (15) Code Section 49-6-72, relating to definitions; and
- 197 (16) Code Section 50-8-50, relating to the creation of the Commission on Regional  
 198 Planning.

199 **SECTION 9.**

200 Article 3 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to  
 201 long-term care ombudsman program, is amended by revising Code Section 31-8-51, relating  
 202 to definitions, as follows:

203 "31-8-51.

204 As used in this article, the term:

205 (1) ~~'Community ombudsman' means a person certified as a community ombudsman~~  
 206 ~~pursuant to Code Section 31-8-52~~ 'Agency' means Georgia Adult and Aging Services  
 207 Agency.

208 (1.1) ~~'Department' means the Department of Human Services~~ 'Community ombudsman'  
 209 means a person certified as a community ombudsman pursuant to Code Section 31-8-52.

210 (2) 'Long-term care facility' means any skilled nursing home, intermediate care home,  
 211 private home care provider, assisted living community, or personal care home now or  
 212 hereafter subject to regulation and licensure by the Department of Community Health.

213 (3) 'Resident' means any person who is receiving treatment or care in any long-term care  
 214 facility who seeks admission to such facility or who has been discharged or transferred  
 215 from such facility.

216 (4) 'State ombudsman' means the state ombudsman established under Code Section  
 217 31-8-52."

218 **SECTION 10.**

219 Said article is further amended by revising Code Section 31-8-52, relating to establishment  
 220 of long-term care ombudsman program, as follows:

221 "31-8-52.

222 Pursuant to the Older Americans Act of 1965 (P.L. 89-73, 79 Stat. 219), as amended, and  
 223 as a condition of receiving funds under that act for various programs for older citizens of  
 224 this state, the ~~Department of Human Services~~ agency has been required to establish and  
 225 operate a long-term care ombudsman program. In order to receive such funds, the  
 226 ~~department~~ agency has already established a position of state ombudsman within the state  
 227 Office of Special Programs. The state ombudsman shall be under the direct supervision  
 228 of the ~~commissioner of human services~~ director of the agency or his or her designee and  
 229 shall be given the powers and duties hereafter provided by this article. The state  
 230 ombudsman shall be a person qualified by training and experience in the field of aging or  
 231 long-term care, or both. The state ombudsman shall promote the well-being and quality  
 232 of life of residents in long-term care facilities and encourage the development of  
 233 community ombudsman activities at the local level. The state ombudsman may certify  
 234 community ombudsmen, and such certified ombudsmen shall have the powers and duties

235 set forth in Code Sections 31-8-54 and 31-8-55. The state ombudsman shall require such  
 236 community ombudsmen to receive appropriate training as determined and approved by the  
 237 ~~department~~ agency prior to certification. Such training shall include an internship of at  
 238 least seven working days in a nursing home and at least three working days in a personal  
 239 care home. Upon certification, the state ombudsman shall issue an identification card  
 240 which shall be presented upon request by community ombudsmen whenever needed to  
 241 carry out the purposes of this article. Two years after first being certified and every two  
 242 years thereafter, each such community ombudsman, in order to carry out his or her duties  
 243 under this article, shall be recertified by the state ombudsman as continuing to meet the  
 244 ~~department's~~ agency's standards as community ombudsman."

245

### SECTION 11.

246 Said article is further amended by revising Code Section 31-8-53, relating to the duties of  
 247 state ombudsman, as follows:

248 "31-8-53.

249 The state ombudsman shall:

250 (1) Establish policies and procedures, subject to approval by the ~~commissioner of human~~  
 251 ~~services~~ director of the agency, for receiving, investigating, referring, and attempting to  
 252 resolve complaints made by or on behalf of residents of long-term care facilities  
 253 concerning any act, omission to act, practice, policy, or procedure that may adversely  
 254 affect the health, safety, or welfare of any resident;

255 (2) Investigate and make reports and recommendations to the ~~department~~ agency and  
 256 other appropriate agencies concerning any act or failure to act by any government agency  
 257 with respect to its responsibilities and duties in connection with long-term care or  
 258 residents of long-term care facilities;

259 (3) Establish a uniform state-wide reporting system to record data about complaints and  
 260 conditions in long-term care facilities and shall collect and analyze such data in order to  
 261 identify significant problems affecting the residents of such facilities;

262 (4) Promote the development of community ombudsmen activities and provide technical  
 263 assistance as necessary; and

264 (5) Make an annual written report, documenting the types of complaints and problems  
 265 reported by residents, to the director of the Office of Special Programs for his or her  
 266 recommendations to the ~~commissioner~~ director of the agency concerning needed policy  
 267 and regulatory and legislative changes."



268 **SECTION 12.**

269 Said article is further amended by revising Code Section 31-8-59, relating to notice to  
270 residents, as follows:

271 "31-8-59.

272 The state ombudsman shall prepare and distribute to each long-term care facility in the  
273 state a written notice describing the long-term care ombudsman program and the procedure  
274 to follow in making a complaint, including the address and telephone number of the state  
275 ombudsman and community ombudsman, if any. The administrator shall give the written  
276 notice required by this Code section to each resident and his legally appointed guardian,  
277 if any, upon admission. The administrator shall also post such written notice in conspicuous  
278 public places in the facility in accordance with procedures provided by the state  
279 ombudsman and shall give such notice to any resident and his legally appointed guardian,  
280 if any, who did not receive it upon admission. The failure to provide the notices required  
281 by this Code section shall be a ground upon which the ~~department~~ Department of Human  
282 Services may revoke any permit issued to a long-term care facility under Code Section  
283 31-7-1."

284 **SECTION 13.**

285 This Act shall become effective upon its approval by the Governor or upon its becoming law  
286 without such approval.

287 **SECTION 14.**

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