

1 and care of alcohol and drug addicts, including the authority to
2 name each facility.”

3
4
5 SECTION 3. Section 44-9-20 of the 1976 Code is amended to
6 read:

7
8 “Section 44-9-20. ~~All the powers and duties vested in the South~~
9 ~~Carolina Mental Health Commission immediately prior to March~~
10 ~~26, 1964 are hereby transferred to and vested in the Department of~~
11 ~~Mental Health. All records, files and other papers belonging to the~~
12 ~~South Carolina Mental Health Commission shall be continued as~~
13 ~~part of the records and files of the Department of Mental Health.~~
14 There is hereby created the South Carolina Department of Mental
15 Health which shall be administered under the Secretary of Mental
16 Health. The Governor shall appoint, with the advice and consent
17 of the Senate, a Secretary of Mental Health who shall serve at the
18 pleasure of the Governor. A person appointed to this position shall
19 possess sound moral character, superior knowledge and experience
20 concerning the delivery and coordination of mental health services
21 in the state and proven executive and administrative ability. The
22 secretary shall receive such compensation as may be established
23 under the provisions of Section 8-11-160 for which funds have
24 been authorized in the general appropriations act.”

25
26
27
28 SECTION 4. Section 44-9-30 of the 1976 Code is amended to
29 read:

30
31 “Section 44-9-30. ~~(A)(1) There is created the governing board~~
32 ~~for the State Department of Mental Health known as the South~~
33 ~~Carolina Mental Health Commission. The commission consists of~~
34 ~~seven members appointed by the Governor, upon the advice and~~
35 ~~consent of the Senate, as follows:~~
36 ~~(a) one member from each of the six congressional districts;~~
37 ~~(b) one member from the State at large.~~
38 ~~(2) The Governor shall consider consumer and family~~
39 ~~representation when appointing members.~~
40 ~~(B) The members serve for terms of five years and until their~~
41 ~~successors are appointed and qualify. The terms of no more than~~
42 ~~two members may expire in one year. The Governor may remove~~
43 ~~a member pursuant to the provisions of Section 1-3-240. A~~

1 ~~vacancy must be filled by the Governor for the unexpired portion~~
2 ~~of the term.~~

3 ~~(C) The commission shall determine policies and promulgate~~
4 ~~regulations governing the operation of the department and the~~
5 ~~employment of professional and staff personnel.~~

6 ~~(D) The members shall receive the same subsistence, mileage, and~~
7 ~~per diem provided by law for members of state boards,~~
8 ~~committees, and commissions. For the purposes of this chapter,~~
9 ~~the following words, phrases, and terms are defined as follows:~~

10 ~~(1) 'Commission' means the governing authority of the~~
11 ~~Department of Mental Health.~~

12 ~~(2) 'Department' means the Department of Mental Health~~
13 ~~(DMH).~~

14 ~~(3) 'Secretary of Mental Health' means the chief administrative~~
15 ~~officer of the Department of Mental Health."~~

16

17

18 SECTION 5. Section 44-9-40 of the 1976 Code is amended to
19 read:

20

21 ~~"Section 44-9-40. The Mental Health Commission shall appoint~~
22 ~~and remove a State Director of Mental Health, who is the chief~~
23 ~~executive of the State Department of Mental Health. Subject to the~~
24 ~~supervision and control of the Mental Health Commission, the~~
25 ~~state director shall administer the policies and regulations~~
26 ~~established by the commission. The director must be a person of~~
27 ~~proven executive and administrative ability with appropriate~~
28 ~~education and substantial experience in the field of mental illness~~
29 ~~treatment. The director must appoint and remove all other officers~~
30 ~~and employees of the Department of Mental Health, subject to the~~
31 ~~approval of the Mental Health Commission. (A)(1) There is~~
32 ~~established the South Carolina Mental Health Commission. The~~
33 ~~commission consists of seven members appointed by the~~
34 ~~Governor, upon the advice and consent of the Senate, as follows:~~

35 ~~(a) one member from each of the six congressional districts;~~

36 ~~(b) one member from the State at large.~~

37 ~~(2) The Governor shall consider consumer and family~~
38 ~~representation when appointing members.~~

39 ~~(B) The members serve for terms of five years and until their~~
40 ~~successors are appointed and qualify. The terms of no more than~~
41 ~~two members may expire in one year. The Governor may remove~~
42 ~~a member pursuant to the provisions of Section 1-3-240. A~~

1 vacancy must be filled by the Governor for the unexpired portion
2 of the term.
3 (C) The commission shall promulgate regulations governing the
4 operation of the department.
5 (D) The commission shall approve the department annual budget.
6 (E) The commission shall study the organizational structure or the
7 department to evaluate the effectiveness, efficiency, and
8 accountability of the department and make recommendations to the
9 Secretary for organizational and service delivery changes.
10 (F) The members shall receive the same subsistence, mileage, and
11 per diem provided by law for members of state boards,
12 committees, and commissions.”

13
14
15 SECTION 6. Section 44-9-50 of the 1976 Code is amended to
16 read:

17
18 “Section 44-9-50. The Department of Mental Health may be
19 divided into such divisions as may be authorized by the ~~director~~
20 Secretary of Mental Health and approved by the commission. One
21 of the divisions must be a Division on Alcohol and Drug Addiction
22 which shall have primary responsibility in the State for treatment
23 of alcohol and drug addicts. One of the divisions must be a
24 Division for Long Term Care which shall have primary
25 responsibility for care and treatment of elderly persons with mental
26 and physical disabilities to the extent that their needs are not met in
27 other facilities either public or private.”

28
29
30 SECTION 7. Section 44-9-60 of the 1976 Code is amended to
31 read:

32
33 “Section 44-9-60. The ~~director~~ Secretary of the Department of
34 Mental Health may appoint a director of each hospital. Each
35 director must be knowledgeable in the treatment of the mentally ill
36 and in hospital administration. The director of each hospital under
37 the jurisdiction of the Department of Mental Health is responsible
38 for the employment of all personnel at the hospital, subject to the
39 approval of the ~~director~~ secretary of the department. ~~The director~~
40 ~~of the department may serve as director of one or more hospitals or~~
41 ~~other mental health facilities.”~~

1 SECTION 8. Section 44-9-70 of the 1976 Code is amended to
2 read:

3
4 “Section 44-9-70. The ~~State~~ Department of Mental Health is
5 hereby designated as the State’s mental health authority for
6 purposes of administering Federal funds allotted to South Carolina
7 under the provisions of the National Mental Health Act, as
8 amended. The ~~State Department of Mental Health~~ department is
9 further designated as the State agency authorized to administer
10 minimum standards and requirements for mental health clinics as
11 conditions for participation in Federal-State grants-in-aid under the
12 provisions of the National Mental Health Act, as amended, and is
13 authorized to promote and develop community mental health
14 outpatient clinics. Provided, that nothing in this article shall be
15 construed to prohibit the operation of outpatient mental health
16 clinics by the Medical University of South Carolina Medical
17 ~~College Hospital~~ in Charleston. Provided, further, that nothing in
18 this chapter herein shall be construed to include any of the
19 functions or responsibilities now granted the Department of Health
20 and Environmental Control, or the administration of the State
21 Hospital Construction Act (Hill-Burton Act), as provided in the
22 1976 Code of Laws and amendments to it thereto.”

23
24
25 SECTION 9. Section 44-9-80 of the 1976 Code is amended to
26 read:

27
28 “Section 44-9-80. Payments made to a mental health facility
29 which are derived in whole or in part from Federal funds which
30 become available after June 30, 1967, and which are provided with
31 the stipulation that they be used to improve services to patients
32 shall not be considered fees from paying patients under the terms
33 of Act No. 1100 of 1964 but may be utilized by the ~~State~~
34 Department of Mental Health to improve South Carolina’s
35 comprehensive mental health program.”

36
37
38 SECTION 10. Section 44-9-90 of the 1976 Code is amended to
39 read:

40
41 “Section 44-9-90. The ~~commission~~ department shall:
42 (1) ~~form a body corporate in deed and in law with all the powers~~
43 ~~incident to corporations;~~

1 ~~(2)~~ cooperate with persons in charge of penal institutions in this
2 State for the purpose of providing proper care and treatment for
3 mental patients confined in penal institutions because of
4 emergency;
5 ~~(3)~~(2) inaugurate and maintain an appropriate mental health
6 education and public relations program;
7 ~~(4)~~(3) collect statistics bearing on mental illness, drug addiction,
8 and alcoholism;
9 ~~(5)~~(4) provide vocational training and medical treatment which
10 must tend to the mental and physical betterment of patients and
11 which is designed to lessen the increase of mental illness, drug
12 addiction, and alcoholism;
13 ~~(6)~~(5) encourage the directors of hospitals and their medical staffs
14 in the investigation and study of these subjects and of mental
15 health treatment in general; and
16 ~~(7)~~(6) provide a statewide system for the delivery of mental health
17 services to treat, care for, reduce, and prevent mental illness and
18 provide mental health services for citizens of this State, whether or
19 not in a hospital. The system must include services to prevent or
20 postpone the commitment or recommitment of citizens to
21 hospitals.”

22
23
24 SECTION 11. Section 44-9-100 of the 1976 Code is amended to
25 read:

26
27 “Section 44-9-100. The ~~commission~~ secretary may:

28 (1) prescribe the form of and information to be contained in
29 applications, records, reports, and medical certificates provided for
30 under this chapter, Chapter 11, Chapter 13, Article 1 of Chapter
31 15, Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27,
32 Chapter 48, and Chapter 52;

33 (2) require reports from the director of a state hospital relating to
34 the admission, examination, diagnosis, discharge, or conditional
35 discharge of a patient;

36 (3) investigate complaints made by a patient or by a person on
37 behalf of a patient;

38 (4) ~~adopt~~ in cooperation with the commission, promulgate
39 regulations not inconsistent with this chapter, Chapter 11, Chapter
40 13, ~~Article 1~~ of Chapter 15, Chapter 17, Chapter 22, Chapter 23,
41 Chapter 24, Chapter 27, Chapter 48, and Chapter 52 as it may find
42 to be reasonably necessary for the government of all institutions
43 over which it has authority and of state mental health facilities and

1 the proper and efficient treatment of persons with a mental illness
2 or substance abuse disorder;
3 (5) take appropriate action to initiate and develop relationships and
4 agreements with state, local, federal, and private agencies,
5 hospitals, and clinics as the commission considers necessary to
6 increase and enhance the accessibility and delivery of emergency
7 and all other types of mental health services.”

8
9

10 SECTION 12. Section 44-9-110 of the 1976 Code is amended to
11 read:

12

13 “Section 44-9-110. ~~The Mental Health Commission~~ department
14 ~~may accept on behalf of the Department of Mental Health or any~~
15 ~~of its facilities or services,~~ gifts, bequests, devises, grants,
16 donations of money or real and personal property of whatever
17 kind, ~~but no such gift or grant shall be accepted upon the condition~~
18 ~~that it shall diminish an obligation due the Department for its use~~
19 in furthering the purposes of the department. However, no such
20 gift or grant may be accepted upon the condition that it shall
21 diminish an obligation due the department. ~~The Commission~~
22 department may refuse to accept any such gift or grant and the
23 acceptance of any such gift or grant shall not incur any obligation
24 on the part of the State. Any gift or grant given to a specific
25 facility, program, or service shall be used for that facility, program,
26 or service only, or to its successor. ~~The Commission~~ secretary in
27 cooperation with the commission may promulgate rules and
28 regulations governing the disposition of such gifts and grants.”

29

30

31 SECTION 13. Section 44-9-120 of the 1976 Code is amended to
32 read:

33

34 “Section 44-9-120. ~~The Commission shall submit an annual~~
35 ~~report to the Governor before the eleventh day of January of each~~
36 ~~year setting forth its activities, the financial affairs and the state~~
37 ~~and condition of the State mental health facilities and any other~~
38 ~~statistical information which is usually required of facilities of the~~
39 ~~type over which it has charge. The report shall include any~~
40 ~~recommendations which in the opinion of the Commission will~~
41 ~~improve the mental health program of the State. A copy of the~~
42 ~~report shall also be submitted to the General Assembly. The~~
43 secretary shall electronically submit an annual report to the

1 Governor and members of the General Assembly setting forth its
2 activities, the financial affairs, and the state and condition of the
3 state mental health facilities and other information as the Governor
4 and members of the General Assembly may request to be kept
5 apprised of the operations of the department. The report shall
6 include recommendations that, in the opinion of the secretary, will
7 improve the mental health programs of the State.”
8
9

10 SECTION 14. Chapter 9, Title 44 of the 1976 Code is amended to
11 read:

12
13 “Section 44-9-130. The department may sell timber from its
14 forest lands with the proceeds from the sales may be retained by
15 the department. Before a sale, the State Budget and Control Board
16 shall consult with the State Forester to determine the economic
17 feasibility of the sale, and a sale must not be made without the
18 approval of the Budget and Control Board.

19
20 Section 44-9-140. All departments, officers, agencies, and
21 employees of the State shall cooperate with the Department of
22 Mental Health in carrying out the department’s functions, duties,
23 and responsibilities. The Attorney General shall furnish such legal
24 services as are necessary to the department.”
25
26

27 SECTION 15. Chapter 11, Title 44 of the 1976 Code is amended
28 to read:

29
30 “CHAPTER 11

31
32 Organization and Control of State Mental Health Facilities
33

34 Section 44-11-10. The following facilities shall continue in
35 existence and shall must be maintained for the following purposes:

36 (1) those inpatient facilities as authorized by the Department of
37 Mental Health and funded by legislative appropriations, including
38 facilities for the evaluation and treatment of mentally ill persons,
39 facilities for the evaluation and treatment of chemically dependent
40 persons, and long term care facilities; and

41 (2) the mental health clinics for the diagnosis, treatment, and
42 prevention of mental illness.
43

1 Section 44-11-30. The ~~South Carolina~~ Department of Mental
2 ~~Health Commission~~, in mutual agreement with the authorities of
3 the United States Veterans Administration, may establish South
4 Carolina veterans homes to be located on grounds owned by the
5 Department of Mental Health. The purpose of these homes is to
6 provide treatment for South Carolina veterans who are mentally ill
7 or whose physical condition requires long term nursing care.
8 Admission requirements to these homes are the same as any other
9 facility operated by the department except that the patients at these
10 facilities must be South Carolina veterans. The Department of
11 Mental Health Commission is designated as the agency of the State
12 to apply for and to accept gifts, grants, and other contributions
13 from the federal government or from any other governmental unit
14 for the operation and construction of South Carolina veterans
15 homes. The ~~South Carolina~~ Department of Mental Health
16 ~~Commission~~ shall consult with the Division of Veterans Affairs,
17 Office of the Governor, concerning the policies, management, and
18 operation of the South Carolina veterans homes.

19
20 Section 44-11-40. For the purpose of Section 4-11-30 'South
21 Carolina veterans' means any ex service South Carolina citizen
22 who was discharged under other than dishonorable conditions and
23 who served in any branch of the military or naval service of the
24 United States.

25
26 Section 44-11-60. The Department of Mental Health
27 ~~Commission~~ shall establish mental health clinics throughout the
28 State and shall supervise them.

29
30 Section 44-11-70. The Secretary of Mental Health Commission
31 may employ or may authorize the ~~superintendents~~ directors of
32 mental health facilities to employ suitable persons to act as
33 marshals to keep intruders off and prevent trespass upon State
34 mental health facilities. The marshals employed, in so far as State
35 mental health facilities are concerned, shall be vested with all the
36 powers and charged with all the duties of police officers generally.
37 They may eject trespassers. They may without warrant arrest
38 persons guilty of disorderly conduct or of trespass on State mental
39 health facilities and have them tried in any court of competent
40 jurisdiction.

41
42 Section 44-11-75. (A) It is unlawful for a person without legal
43 cause or good excuse to enter on the premises of a state mental

1 health facility after having been warned by the facility director or,
2 in his absence, by the director's representative, in writing, within
3 the six months preceding not to enter on the premises.

4 (B) It is unlawful for a person without legal cause or good
5 excuse to fail or refuse immediately to leave the premises of a state
6 mental health facility upon being ordered or requested to leave by
7 the facility director or, in his absence, by the facility director's
8 representative.

9 (C) A person violating subsection (A) or (B), upon conviction,
10 must be fined not more than two hundred dollars or imprisoned not
11 more than thirty days.

12 (D) A municipal court or magistrate's court has jurisdiction
13 over violations of this section occurring within the respective
14 limits of the municipality or magisterial district.

15
16 Section 44-11-110. The ~~Mental Health Commission~~ Secretary of
17 Mental Health may, ~~by resolution recorded on the minutes of its~~
18 ~~meetings,~~ grant easements, permits or rights of way on, over or
19 under the grounds of the facilities, but none may be granted unless
20 approved in writing by the Attorney General before delivery.”

21
22
23 SECTION 16. Section 44-13-30 of the 1976 Code is amended to
24 read:

25
26 “Section 44-13-30. Unless he was admitted pursuant to the
27 Interstate Compact on Mental Health as set out in Section
28 44-25-20 or a supplementary agreement thereto, if any person
29 admitted to a State mental health facility is not a citizen of this
30 State, the ~~superintendent~~ director of the facility concerned shall
31 immediately notify the Department of Mental Health, and the
32 Department of Mental Health shall notify the mental health
33 commission or other appropriate agency of the state of which the
34 patient or trainee is a citizen. If the state of his citizenship fails to
35 provide for his removal within a reasonable time, the Department
36 of Mental Health shall cause him to be delivered to the officials
37 authorized by law to care for similar persons pending their
38 commitment to state institutions of the state of his citizenship. The
39 cost of these proceedings and conveyance from this State shall be
40 borne by this State under reciprocity agreements made by the
41 Department of Mental Health with the mental health authorities of
42 other states. In entering upon such reciprocal agreements with
43 other states, the Department of Mental Health shall provide that the

1 requirements necessary to gain residence in this State shall not be
2 less than those required for the acquisition of residence in the other
3 contracting state. The Department of Mental Health may,
4 however, in cases of undue hardship waive the requirements of
5 residence, for cause.”

6

7

8 SECTION 17. Section 44-13-40 of the 1976 Code is amended to
9 read:

10

11 “Section 44-13-40. If any person admitted to a State mental
12 health facility is not a citizen of the United States, the
13 ~~superintendent~~ director of the facility concerned shall immediately
14 notify the Department of Mental Health of the name of the person
15 and all ascertainable information as to race, nativity, date of last
16 arrival in the United States, the name of the vessel on which he
17 arrived, the port at which he landed and the name of the
18 transporting company. The Department of Mental Health shall
19 transmit this information to the appropriate United States
20 authorities and shall continue to provide care and treatment for the
21 patient or trainee pending arrangements for his deportation.”

22

23

24 SECTION 18. Section 44-13-60 of the 1976 Code is amended to
25 read:

26

27 “Section 44-13-60. The Department of Mental Health shall
28 investigate the case of each patient or trainee in a State mental
29 health facility who is simply mentally or physically infirm or who
30 is a harmless mental defective or harmless epileptic. When, in the
31 opinion of the Department of Mental Health, the family, guardian,
32 trustee, committee or other person legally responsible for the
33 person is financially able to provide for his care, it shall, when in
34 the opinion of the ~~Department~~ Secretary of Mental Health this is
35 advisable, transfer the patient or trainee to the custody of that
36 person. If all persons legally responsible for the patient or trainee
37 are financially unable to provide for his care, the Department of
38 Mental Health shall, when practicable, transfer the custody of the
39 person to the county health authorities of the county of which the
40 patient or trainee was a resident prior to admittance.”

41

42

1 SECTION 19. Chapter 15, Title 44 of the 1976 Code is amended
2 to read:

3
4 "CHAPTER 15

5
6 Local Mental Health Programs, Boards and Centers

7
8 Section 44-15-10. Any county, city, town, political subdivision,
9 or any combination ~~thereof~~ of them, of over one hundred thousand
10 population, and upon consent of the ~~South Carolina~~ Department of
11 Mental Health, any city, county, town, or political subdivision, or
12 combination ~~thereof~~ of them, with less than one hundred thousand
13 population, may establish a community mental health services
14 program and may establish clinics and staff them with persons
15 specially trained in psychiatry and related fields. Such programs
16 and clinics may be administered by a county, city, town, political
17 subdivision or nonprofit corporation or a community mental health
18 board established pursuant to this ~~article~~ chapter.

19
20 Section 44-15-20. The Department of Mental Health may,
21 when funds are available for such purposes, make grants to assist
22 counties, cities, towns, political subdivisions or any combinations
23 ~~thereof~~ of them, or any nonprofit corporation, in the establishment
24 and operation of local mental health programs to provide the
25 following services:

26 (1) collaborative and cooperative services with public health,
27 education, welfare and other groups for programs of prevention of
28 mental illness, mental retardation and other psychiatric disabilities;

29 (2) informational and educational services to the general public
30 and lay and professional groups;

31 (3) consultative services to schools, courts and health and
32 welfare agencies, both public and private;

33 (4) diagnostic and treatment services; and

34 (5) after care services for patients suffering from mental or
35 emotional disorders, ~~mental retardation~~ and other psychiatric
36 conditions, particularly those who have received prior treatment in
37 an inpatient facility.

38
39 Section 44-15-30. Any county, city, town, political subdivision,
40 nonprofit corporation, or community mental health board
41 administering a mental health services program may apply for the
42 assistance provided by this ~~article~~ chapter by submitting annually
43 to the Department of Mental Health its plan and budget for the

1 next fiscal year together with the recommendations of the
2 community mental health board. ~~No~~ A program ~~shall be~~ is not
3 eligible for such assistance unless its plan and budget have been
4 approved by the Department.

5
6 Section 44-15-40. At the beginning of each fiscal year the
7 Department shall allocate available funds to the mental health
8 programs for disbursement during the fiscal year in accordance
9 with such approved plans and budgets. The Department shall,
10 from time to time during the fiscal year, review the budgets and
11 expenditures of the various programs, and if funds are not needed
12 for a program to which they were allocated, it may, after
13 reasonable notice and opportunity for hearing, withdraw such
14 funds as are unencumbered and reallocate them to other programs.
15 It may withdraw funds from any program which is not being
16 administered in accordance with its approved plan and budget.

17
18 Section 44-15-50. Grants may be made for expenditures for
19 mental health services whether provided by operation of a local
20 facility or through contract with other public or private agencies or
21 individual persons.

22
23 Section 44-15-60. Every county, city, town, or political
24 subdivision, or combination of them, establishing a community
25 mental health services program, before it may come within this
26 ~~article~~ chapter, shall establish a community mental health board to
27 be made up of not less than seven nor more than fifteen members.
28 Membership of the boards, so far as may be practicable, must be
29 representatives of local health departments, medical societies,
30 county welfare boards, hospital boards, and lay associations
31 concerned with mental health as well as labor, business, and civic
32 groups, and the general public. At least one member of the board
33 must be a medical doctor licensed to practice medicine in this
34 State. The members must be appointed by the Governor upon the
35 recommendation of a majority of the members of the legislative
36 delegations of the counties participating. The legislative
37 delegations and the Governor shall consider consumer and family
38 representation, including parents of emotionally disturbed children
39 and adolescents, when recommending and appointing members to
40 the board. By resolution a county legislative delegation may
41 delegate to the governing body of the county they represent the
42 authority to recommend board members to the Governor. The
43 resolution is not revocable, and copies of the resolution must be

1 sent to the Governor, the Department of Mental Health, and the
2 governing bodies of the counties concerned. The number of
3 members representing each county must be proportional to its
4 population. The term of office of each member of the community
5 mental health board is four years and until the member's successor
6 is appointed. Vacancies must be filled for the unexpired term in
7 the same manner as original appointments. A member of a board
8 may be removed by the Governor pursuant to the provisions of
9 Section 1-3-240. A person may serve consecutive terms.

10 In Berkeley County, appointments made pursuant to this section
11 are governed by the provisions of Act 159 of 1995.

12 In Dorchester County, appointments made pursuant to this
13 section are governed by the provisions of Act 512 of 1996.

14 In Georgetown County, appointments made pursuant to this
15 section are governed by the provisions of Act 515 of 1996.

16

17 Section 44-15-70. Subject to the provisions of this ~~article~~
18 chapter and the rules and regulations of the Department of Mental
19 Health, each community mental health board shall:

20 (1) ~~Be serve as~~ the administrative agency for the community
21 mental health services program; and it shall be a body corporate in
22 deed and in law with all the powers incident to corporation,
23 including the power to purchase, lease or sell real and personal
24 property;

25 (2) employ personnel necessary to carry out the community
26 mental health services program, who shall meet the job
27 specifications as prescribed by the Department and its merit
28 system;

29 (3) review and evaluate community mental health services
30 provided pursuant to this ~~article~~ chapter and report its findings and
31 recommendations to the Department, the administrator of the local
32 program and, when indicated, the public;

33 (4) recruit and promote local financial support for the program
34 from private sources such as community chests, business,
35 industrial and private foundations, voluntary agencies and other
36 lawful sources, and promote public support for municipal and
37 county appropriations;

38 (5) promote, arrange and implement working agreements with
39 other social service agencies, both public and private, and with
40 other educational and judicial agencies;

41 (6) advise the administrator of the local program on the
42 adoption and implementation of policies to stimulate effective
43 community relations; and

1 (7) review the annual plan and budget of the local program and
2 make recommendations ~~thereon~~ on them.

3
4 Section 44-15-80. In addition to the powers and duties already
5 conferred by law, the Department of Mental Health shall:

6 (1) ~~Promulgate rules and~~ recommend regulations to the
7 Secretary governing the eligibility of community mental health
8 programs to receive State grants; and prescribing standards for
9 qualification of personnel and quality of professional service and
10 for in service training and educational leave programs for
11 personnel;

12 (2) govern eligibility for service so that no person will be
13 denied service on the basis of inability to pay and so that anyone
14 who cannot afford to pay for necessary treatment at the rate
15 customarily charged in available private practice ~~shall~~ will be
16 eligible to receive services from the community mental health
17 clinic;

18 (3) provide for establishment of fee schedules and reduction of
19 balance due which ~~shall~~ must be based upon ability to pay;

20 (4) regulate fees for consultation and diagnostic services,
21 which services may be provided to anyone without regard to his
22 financial status when ~~such~~ the person is referred by the courts,
23 schools, or health or welfare agencies;

24 (5) ~~promulgate such~~ adopt other rules and promulgate
25 regulations as ~~it deems~~ necessary to carry out the purposes of this
26 ~~article~~ chapter;

27 (6) review and evaluate local programs and the performance of
28 all personnel and make recommendations ~~thereon~~ on them to
29 community mental health boards and program administrators;

30 (7) provide consultative staff service to communities to assist
31 in ascertaining local needs and in planning and establishing
32 community mental health programs; ~~and~~

33 (8) employ personnel, ~~certified by the merit system as~~
34 ~~classified according to existing job classifications~~, including a
35 State Director of Community Mental Health Services, to be under
36 the supervision of the Secretary ~~Director of the Department of~~
37 ~~Mental Health~~, to implement the provisions of this ~~article~~ chapter;

38 (9) require reports from the directors of community mental
39 health programs relating to the intake, examination, diagnosis, and
40 file closing of any patient or client.

41
42 Section 44-15-90. If any balances of appropriations for the
43 program authorized by this ~~article~~ chapter are unexpended during

1 any fiscal year, the Department of Mental Health may carry ~~such~~
2 these balances forward to the next fiscal year; provided, that not
3 more than five per cent of the amount appropriated during any
4 fiscal year ~~shall~~ may be carried forward.”

5

6

7 SECTION 20. Section 44-17-320 of the 1976 Code is amended by
8 adding:

9

10 “Section 44-17-320. The ~~superintendent~~ director of a hospital
11 shall discharge any voluntary patient who has recovered or whose
12 detention he determines to be no longer advisable.”

13

14

15 SECTION 21. Section 44-17-610 of the 1976 Code is amended by
16 adding:

17

18 “Section 44-17-610. Upon request by the individual, his
19 relatives, spouse or guardian and agreement by the ~~superintendent~~
20 director of the hospital concerned, the court may order the
21 hospitalization of the patient in any private, county, Veterans’
22 Administration or other suitable institution. Neither the State, any
23 county nor any municipality shall be liable for any costs of or
24 charges for sending an individual to a private institution or
25 connected with or arising out of his being sent there.”

26

27

28 SECTION 22. Section 44-17-900 of the 1976 Code is amended by
29 adding:

30

31 “Section 44-17-900. Neither the ~~superintendent~~ director of a
32 mental health facility nor any other person legally participating in
33 the release or discharge of a patient shall be liable either civilly or
34 criminally on account of such participation.”

35

36

37 SECTION 23. Section 44-22-10 of the 1976 Code is amended by
38 adding:

39

40 “Section 44-22-10. As used in this chapter:

41 (1) ~~[Reserved]~~

42 (2) ~~“Director” means the Director of the Department of Mental~~
43 ~~Health.~~

- 1 (3) “Court” means probate court.
- 2 (4) “Department” means the State Department of Mental Health.
- 3 (5) “Facility” means a residential program operated by the
- 4 department.
- 5 (6) “Independent examination” means an examination of a patient
- 6 by a qualified employee of the department.
- 7 (7) “Individual plan of treatment” means a plan written by a
- 8 multi disciplinary team setting forth measurable goals and
- 9 objectives in prescribing an integrated program of individual
- 10 designed activities or therapies necessary to achieve the goals and
- 11 objectives.
- 12 (8) “Major medical treatment” means a medical, surgical, or
- 13 diagnostic intervention or procedure where a general anesthetic is
- 14 used or which involves significant invasions of bodily integrity
- 15 requiring an incision or producing substantial pain, discomfort,
- 16 debilitation, or having a significant recovery period. It does not
- 17 include a routine diagnosis or treatment such as the administration
- 18 of medications or nutrition or the extraction of bodily fluids for
- 19 analysis, dental care performed with local anesthetic, procedures
- 20 which are provided under emergency circumstances, or the
- 21 withdrawal or discontinuance of medical treatment which is
- 22 sustaining life functions.
- 23 (9) “Mental disability” means a medically diagnosable, abnormal
- 24 condition which is expected to continue for a considerable length
- 25 of time, whether correctable or uncorrectable, which reasonably is
- 26 expected to limit the person’s functional ability.
- 27 (10) “Multi disciplinary team” means persons drawn from or
- 28 representing the professional disciplines or service areas included
- 29 in the treatment plan.
- 30 (11) “Patient” means an individual undergoing treatment in the
- 31 department; however, the term does not include a person
- 32 committed to the department pursuant to Chapter 48 of Title 44.
- 33 (12) “Patient unable to consent” means a patient unable to
- 34 appreciate the nature and implications of his condition and
- 35 proposed health care, to make a reasoned decision concerning the
- 36 proposed health care, or to communicate that decision in an
- 37 unambiguous manner. This definition does not include a person
- 38 under eighteen years of age, and this chapter does not affect the
- 39 delivery of health care to that person unless he is married or has
- 40 been determined judicially to be emancipated. A patient’s inability
- 41 to consent must be certified by two licensed physicians, each of
- 42 whom has examined the patient. However, in an emergency the
- 43 patient’s inability to consent may be certified by a health care

1 professional responsible for his care if the health care professional
2 states in writing in the patient's record that the delay occasioned by
3 obtaining certification from two licensed physicians would be
4 detrimental to his health. A certifying physician or other health
5 care professional shall give an opinion regarding the cause and
6 nature of the inability to consent, its extent, and its probable
7 duration.

8 (13) "Reasonably available" means that a person to be contacted
9 may be contacted with diligent efforts by the attending physician
10 or another person acting on behalf of the attending physician.

11 (14) "Treatment" means the attempted correction or facilitation of
12 a mental illness or alcohol and drug abuse.

13 (1) 'Court' means Probate Court.

14 (2) 'Department' means the South Carolina Department of Mental
15 Health

16 (3) 'Facility' means a residential program operated by the
17 department.

18 (4) 'Independent examination' means an examination of a patient
19 by a qualified employee of the department.

20 (5) 'Individual plan of treatment' means a plan written by a
21 multi-disciplinary team setting forth measurable goals and
22 objectives in prescribing an integrated program of individual
23 designed activities or therapies necessary to achieve the goals and
24 objectives.

25 (6) 'Major medical treatment' means a medical, surgical, or
26 diagnostic intervention or procedure where a general anesthetic is
27 used or which involves significant invasions of bodily integrity
28 requiring an incision or producing substantial pain, discomfort,
29 debilitation, or having a significant recovery period. It does not
30 include a routine diagnosis or treatment such as the administration
31 of medications or nutrition or the extraction of bodily fluids for
32 analysis, dental care performed with local anesthetic, procedures
33 which are provided under emergency circumstances, or the
34 withdrawal or discontinuance of medical treatment which is
35 sustaining life functions.

36 (7) 'Mental disability' means a medically diagnosable, abnormal
37 condition which is expected to continue for a considerable length
38 of time, whether correctable or uncorrectable, which reasonably is
39 expected to limit the person's functional ability.

40 (8) 'Multi-disciplinary team' means persons drawn from or
41 representing the professional disciplines or service areas included
42 in the treatment plan.

1 (9) ‘Patient’ means an individual undergoing treatment in the
2 department; however, the term does not include a person
3 committed to the department pursuant to Chapter 48 of Title 44.

4 (10) ‘Patient unable to consent’ means a patient unable to
5 appreciate the nature and implications of his condition and
6 proposed health care, to make a reasoned decision concerning the
7 proposed health care, or to communicate that decision in an
8 unambiguous manner. This definition does not include a person
9 under eighteen years of age, and this chapter does not affect the
10 delivery of health care to that person unless he is married or has
11 been determined judicially to be emancipated. A patient’s inability
12 to consent must be certified by two licensed physicians, each of
13 whom has examined the patient. However, in an emergency the
14 patient’s inability to consent may be certified by a health care
15 professional responsible for his care if the health care professional
16 states in writing in the patient’s record that the delay occasioned by
17 obtaining certification from two licensed physicians would be
18 detrimental to his health. A certifying licensed physician or other
19 health care professional shall give an opinion regarding the cause
20 and nature of the inability to consent, its extent, and its probable
21 duration.

22 (11) ‘Reasonably available’ means that a person to be contacted
23 may be contacted with diligent efforts by the attending physician
24 or another person acting on behalf of the attending physician.

25 (12) ‘Secretary’ means the chief administrative officer of the
26 Department of Mental Health.

27 (13) ‘Treatment’ means the attempted correction or facilitation of a
28 mental illness or alcohol and drug abuse.”

29

30

31 SECTION 24. Section 44-22-110(C) of the 1976 Code is amended
32 to read:

33

34 “Section 44-22-110. (C) Patients and guardians denied access to
35 medical records may appeal the refusal to the ~~Director~~ Secretary of
36 the Department of Mental Health. The director of the residential
37 program shall notify the patient or guardian of the right to appeal.”

38

39

40 SECTION 25. Section 44-23-10 of the 1976 Code is amended to
41 read:

42

1 “Section 44-23-10. When used in this chapter, Chapter 9,
2 Chapter 11, Chapter 13, Articles 3, 5, 7, and 9 of Chapter 17,
3 Chapter 24, Chapter 27, Chapter 48, and Chapter 52, unless the
4 context clearly indicates a different meaning:

5 (1) ‘Attending physician’ means the staff physician charged with
6 primary responsibility for the treatment of a patient.

7 (2) ‘Conservator’ means a person who legally has the care and
8 management of the estate of one who is incapable of managing his
9 own estate, whether or not he has been declared legally
10 incompetent.

11 (3) ‘Department’ means the South Carolina Department of Mental
12 Health.

13 (4) ‘Designated examiner’ means a physician licensed by the
14 Board of Medical Examiners of this State or a person registered by
15 the department as specially qualified, under standards established
16 by the department, in the diagnosis of mental or related illnesses.

17 ~~(5) “Director” means the director of the South Carolina~~
18 ~~Department of Mental Health.~~

19 ~~(6)~~ ‘Discharge’ means an absolute release or dismissal from an
20 institution or a hospital.

21 ~~(7)~~(6) ‘Guardian’ or “legal guardian” means a person who legally
22 has the care and management of the person of one who is not sui
23 juris.

24 ~~(8)~~(7) ‘Hospital’ means a public or private hospital.

25 ~~(9)~~(8) ‘Interested person’ means a parent, guardian, spouse, adult
26 next of kin, or nearest friend.

27 ~~(10)~~(9) ‘Leave of absence’ means a qualified release from an
28 institution or a hospital.

29 ~~(11)~~(10) ‘Licensed physician’ means an individual licensed under
30 the laws of this State to practice medicine or a medical officer of
31 the government of the United States while in this State in the
32 performance of official duties.

33 ~~(12)~~(11) ‘Likelihood of serious harm’ means because of mental
34 illness there is:

35 (a) a substantial risk of physical harm to the person himself as
36 manifested by evidence of threats of, or attempts at, suicide or
37 serious bodily harm;

38 (b) a substantial risk of physical harm to other persons as
39 manifested by evidence of homicidal or other violent behavior and
40 serious harm to them; or

41 (c) a very substantial risk of physical impairment or injury to the
42 person himself as manifested by evidence that the person’s
43 judgment is so affected that the person is unable to protect himself

1 or herself in the community and that reasonable provision for the
2 person's protection is not available in the community.
3 ~~(13)~~(12) 'Mental health clinic' means an institution, or part of an
4 institution, maintained by the department for the treatment and
5 care on an outpatient basis.
6 ~~(14)~~(13) 'Nearest friend' means any responsible person who, in the
7 absence of a parent, guardian, or spouse, undertakes to act for and
8 on behalf of another individual who is incapable of acting for
9 himself for that individual's benefit, whether or not the individual
10 for whose benefit he acts is under legal disability.
11 ~~(15)~~(14) 'Nonresident licensed physician' means an individual
12 licensed under the laws of another state to practice medicine or a
13 medical officer of the government of the United States while
14 performing official duties in that state.
15 ~~(16)~~(15) 'Observation' means diagnostic evaluation, medical,
16 psychiatric and psychological examination, and care of a person
17 for the purpose of determining his mental condition.
18 ~~(17)~~(16) 'Officer of the peace' means any state, county, or city
19 police officer, officer of the State South Carolina Highway Patrol,
20 sheriff, or deputy sheriff.
21 ~~(18)~~(17) 'Parent' means natural parent, adoptive parent, stepparent,
22 or person with legal custody.
23 ~~(19)~~(18) 'Patient' means a person who seeks hospitalization or
24 treatment under the provisions of this chapter, Chapter 9, Chapter
25 11, Chapter 13, ~~Article 1~~ of Chapter 15, Chapter 17, Chapter 27,
26 Chapter 48, and Chapter 52 or any person for whom such
27 hospitalization or treatment is sought.
28 ~~(20)~~(19) 'Person with a mental illness' means a person with a
29 mental disease to such an extent that, for the person's own welfare
30 or the welfare of others or of the community, the person requires
31 care, treatment, or hospitalization.
32 ~~(21)~~(20) 'Person with mental retardation' means a person, other
33 than a person with a mental illness primarily in need of mental
34 health services, whose inadequately developed or impaired
35 intelligence and adaptive level of behavior require for the person's
36 benefit, or that of the public, special training, education,
37 supervision, treatment, care, or control in the person's home or
38 community or in a service facility or program under the control
39 and management of the Department of Disabilities and Special
40 Needs.
41 (21) 'Secretary' means the chief administrative officer of the
42 Department of Mental Health.
43

1 (22) ‘State hospital’ means a hospital, or part of a hospital,
2 equipped to provide inpatient care and treatment and maintained
3 by the department.

4 (23) ‘State mental health facility’ or ‘facility’ means any hospital,
5 clinic, or other institution maintained by the department.

6 (24) ‘State of citizenship’ means the last state in which a person
7 resided for one or more consecutive years, exclusive of time spent
8 in public or private hospitals and penal institutions or on parole or
9 unauthorized absence from such hospitals and institutions and of
10 time spent in service in any of the Armed Forces of the United
11 States; the residence of a person must be determined by the actual
12 physical presence, not by the expressed intent of the person.

13 (25) ‘Treatment’ means the broad range of emergency, outpatient,
14 intermediate, and inpatient services and care that may be extended
15 to a patient, including diagnostic evaluation and medical,
16 psychiatric, psychological, and social service care and vocational
17 rehabilitation and counseling.”

18

19

20

21 SECTION 26. Section 44-23-430 of the 1976 Code is amended to
22 read:

23

24 “Section 44-23-430. Upon receiving the report of the
25 designated examiners the court shall set a date for and notify the
26 person and his counsel of a hearing on the issue of his fitness to
27 stand trial. If, in the judgment of the designated examiners or the
28 ~~superintendent~~ director of the facility if the person has been
29 detained, the person is in need of hospitalization, the court with
30 criminal jurisdiction over the person may authorize his detention in
31 a suitable facility until the hearing. The person shall be entitled to
32 be present at the hearings and to be represented by counsel. If
33 upon completion of the hearing and consideration of the evidence
34 the court finds that:

35 (1) the person is fit to stand trial, it shall order the criminal
36 proceedings resumed; or

37 (2) the person is unfit to stand trial for the reasons set forth in
38 Section 44-23-410 and is unlikely to become fit to stand trial in the
39 foreseeable future, the solicitor responsible for the criminal
40 prosecution shall initiate judicial admission proceedings pursuant
41 to Sections 44-17-510 through 44-17-610 or Section 44-20-450
42 within fourteen days, excluding Saturdays, Sundays, and legal
43 holidays, during which time the court may order the person

1 hospitalized, may order the person to continue in detention if
2 detained, or, if on bond, may permit the person to remain on bond;
3 or

4 (3) the person is unfit to stand trial but likely to become fit in the
5 foreseeable future, the court shall order him hospitalized up to an
6 additional sixty days. If the person is found to be unfit at the
7 conclusion of the additional period of treatment the solicitor
8 responsible for the criminal prosecution shall initiate judicial
9 admission proceedings pursuant to Sections 44-17-510 through
10 44-17-610 or Section 44-20-450 within fourteen days, excluding
11 Saturdays, Sundays, and legal holidays, during which time the
12 person shall remain hospitalized.

13 Subject to the provisions of Section 44-23-460, persons against
14 whom criminal charges are pending shall have all the rights and
15 privileges of other involuntarily hospitalized persons.

16 Persons against whom criminal charges are pending but who are
17 not involuntarily committed following judicial admission
18 proceedings shall be released.”

19

20

21 SECTION 27. Section 44-23-460 of the 1976 Code is amended to
22 read:

23

24 “Section 44-23-460. When the ~~superintendent~~ director of a
25 hospital or mental retardation facility believes that a person against
26 whom criminal charges are pending no longer requires
27 hospitalization, the court in which criminal charges are pending
28 shall be notified and shall set a date for and notify the person of a
29 hearing on the issue of fitness pursuant to Section 44-23-430. At
30 such time, the person shall be entitled to assistance of counsel.

31 (1) If upon the completion of the hearing, the court finds the
32 person unfit to stand trial, it shall order his release from the
33 hospital; and

34 (2) If such a person has been hospitalized for a period of time
35 exceeding the maximum possible period of imprisonment to which
36 the person could have been sentenced if convicted as charged, the
37 court shall order the charges dismissed and the person released; or

38 (3) The court may order that criminal proceedings against a person
39 who has been found fit to stand trial be resumed, or the court may
40 dismiss criminal charges and order the person released if so much
41 time has elapsed that prosecution would not be in the interest of
42 justice.”

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SECTION 28. Section 44-24-10(7) of the 1976 Code is amended to read:

“Section 44-24-10. (7) “Department” means the ~~State~~ South Carolina Department of Mental Health.”

10 SECTION 29. Section 44-25-30 of the 1976 Code is amended to
11 read:

12
13 “Section 44-25-30. Pursuant to the compact, the Secretary of
14 the South Carolina Department of Mental Health and the Director
15 of the South Carolina Department of Disabilities and Special
16 Needs ~~State Directors of the Departments of Mental Health and~~
17 ~~Disabilities and Special Needs~~ shall be the compact administrators
18 for the mentally ill and the mentally retarded, or those with a
19 related disability, respectively, and, acting jointly with like officers
20 of other party states, shall have power to promulgate rules and
21 regulations to carry out more effectively the terms of the compact.
22 The compact administrators shall cooperate with all departments,
23 agencies and officers of and in the government of this State and its
24 subdivisions in facilitating the proper administration of the
25 compact and any supplementary agreement or agreements entered
26 into by this State and thereunder.”

27
28
29 SECTION 30. Section 44-48-110 of the 1976 Code is amended to
30 read:

31
32 “Section 44-48-110. A person committed pursuant to this
33 chapter must have an examination of his mental condition
34 performed once every year. The person may retain or, if the
35 person is indigent and so requests, the court may appoint a
36 qualified expert to examine the person, and the expert must have
37 access to all medical, psychological, criminal offense, and
38 disciplinary records and reports concerning the person. The annual
39 report must be provided to the court which committed the person
40 pursuant to this chapter, the Attorney General, the solicitor who
41 prosecuted the person, and the multidisciplinary team. The court
42 must conduct an annual hearing to review the status of the
43 committed person. The committed person is not prohibited from

1 petitioning the court for release at this hearing. The ~~Director~~
2 Secretary of the Department of Mental Health must provide the
3 committed person with an annual written notice of the person's
4 right to petition the court for release over the director's objection;
5 the notice must contain a waiver of rights. The ~~director~~ secretary
6 must forward the notice and waiver form to the court with the
7 annual report. The committed person has a right to have an
8 attorney represent him at the hearing, but the committed person is
9 not entitled to be present at the hearing. If the court determines
10 that probable cause exists to believe that the person's mental
11 abnormality or personality disorder has so changed that the person
12 is safe to be at large and, if released, is not likely to commit acts of
13 sexual violence, the court must schedule a trial on the issue. At the
14 trial, the committed person is entitled to be present and is entitled
15 to the benefit of all constitutional protections that were afforded
16 the person at the initial commitment proceeding. The Attorney
17 General must notify the victim of all proceedings. The Attorney
18 General must represent the State and has the right to have the
19 committed person evaluated by qualified experts chosen by the
20 State. The trial must be before a jury if requested by either the
21 person, the Attorney General, or the solicitor. The committed
22 person also has the right to have qualified experts evaluate the
23 person on the person's behalf, and the court must appoint an expert
24 if the person is indigent and requests the appointment. The burden
25 of proof at the trial is upon the State to prove beyond a reasonable
26 doubt that the committed person's mental abnormality or
27 personality disorder remains such that the person is not safe to be
28 at large and, if released, is likely to engage in acts of sexual
29 violence."

30
31

32 SECTION 31. Section 44-48-120 of the 1976 Code is amended to
33 read:

34

35 "Section 44-48-120. If the ~~Director~~ Secretary of the Department
36 of Mental Health determines that the person's mental abnormality
37 or personality disorder has so changed that the person is safe to be
38 at large and, if released, is not likely to commit acts of sexual
39 violence, the ~~director~~ secretary must authorize the person to
40 petition the court for release. The petition must be served upon the
41 court and the Attorney General. The Attorney General must notify
42 the victim of the proceeding. The court, upon receipt of the petition
43 for release, must order a hearing within thirty days. The Attorney

1 General must represent the State and has the right to have the
2 petitioner examined by experts chosen by the State. The hearing
3 must be before a jury if requested by either the petitioner or the
4 Attorney General. The burden of proof is upon the Attorney
5 General to show beyond a reasonable doubt that the petitioner's
6 mental abnormality or personality disorder remains such that the
7 petitioner is not safe to be at large and, that if released, is likely to
8 commit acts of sexual violence.”

9

10

11 SECTION 32. Section 44-48-130 of the 1976 Code is amended to
12 read:

13

14 “Section 44-48-130. Nothing in this chapter prohibits a person
15 from filing a petition for release pursuant to this chapter.
16 However, if a person has previously filed a petition for release
17 without the approval of the ~~Director~~ Secretary of the Department
18 of Mental Health, and the court determined either upon review of
19 the petition or following a hearing that the petitioner’s petition was
20 frivolous or that the petitioner’s condition had not changed so that
21 the petitioner continued to be a threat and, if released, would
22 commit acts of sexual violence, the court must deny the subsequent
23 petition unless the petition contains facts upon which a court could
24 find the condition of the petitioner had so changed that a hearing
25 was warranted. Upon receipt of a first or subsequent petition from
26 a committed person without the director’s approval, the court must,
27 whenever possible, review the petition and determine if the
28 petition is based upon frivolous grounds and, if so, must deny the
29 petition without a hearing.”

30

31

32 SECTION 33. Section 44-9-160 of the 1976 Code is repealed.

33

34

35 SECTION 34. Section 63-11-1510 of the 1976 Code is amended
36 to read:

37

38 “Section 63-11-1510. There is established the Interagency
39 System for Caring for Emotionally Disturbed Children, an
40 integrated system of care to be developed by the Continuum of
41 Care for Emotionally Disturbed Children of the Governor’s Office,
42 the Department of Mental Health, the Department of Disabilities
43 and Special Needs, the ~~State~~ Department of Health and Human

1 ~~Services Finance Commission, the Department of Mental Health,~~
2 ~~and the Department of Social Services to be implemented by~~
3 ~~November 1, 1994.~~ The goal of the system is to ~~implement South~~
4 ~~Carolina's Families First Policy and to~~ support children in a
5 manner that enables them to function in a community setting. The
6 system shall provide assessment and evaluation procedures to
7 insure a proper service plan and placement for each child. This
8 system must have as a key component the clear identification of
9 the agency accountable for monitoring on a regular basis each
10 child's care plan and procedures to evaluate and certify the
11 programs offered by providers."

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13
14
15 SECTION 35. (A) References to the names of agencies,
16 departments, entities or public officials changed by this act are
17 considered to be and must be construed to mean appropriate
18 references.

19 (B) The membership of the Legislative Council shall cause
20 the changes to the 1976 Code as contained in this act to be printed
21 in replacement volumes or in cumulative supplements as they
22 consider practical and economical.

23
24
25 SECTION 36. The repeal or amendment by this act of any law,
26 whether temporary or permanent or civil or criminal, does not
27 affect pending actions, rights, duties, or liabilities founded thereon,
28 or alter, discharge, release or extinguish any penalty, forfeiture, or
29 liability incurred under the repealed or amended law, unless the
30 repealed or amended provision shall so expressly provide. After
31 the effective date of this act, all laws repealed or amended by this
32 act must be taken and treated as remaining in full force and effect
33 for the purpose of sustaining any pending or vested right, civil
34 action, special proceeding, criminal prosecution, or appeal existing
35 as of the effective date of this act, and for the enforcement of
36 rights, duties, penalties, forfeitures, and liabilities as they stood
37 under the repealed or amended laws.

38
39
40 SECTION 37. If any section, subsection, paragraph,
41 subparagraph, sentence, clause, phrase, or word of this act is for
42 any reason held to be unconstitutional or invalid, such holding
43 shall not affect the constitutionality or validity of the remaining

1 portions of this act, the General Assembly hereby declaring that it
2 would have passed this act, and each and every section, subsection,
3 paragraph, subparagraph, sentence, clause, phrase, and word
4 thereof, irrespective of the fact that any one or more other sections,
5 subsections, paragraphs, subparagraphs, sentences, clauses,
6 phrases, or words hereof may be declared to be unconstitutional,
7 invalid, or otherwise ineffective.

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10 SECTION 38. This act takes effect January 1, 2011.

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