**South Carolina General Assembly**

121st Session, 2015-2016

**S. 600**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Scott and Bryant

Document Path: l:\council\bills\bh\26231vr15.docx

Introduced in the Senate on March 25, 2015

Currently residing in the Senate Committee on **Medical Affairs**

Summary: Create the Division of Disabilities and Special Needs

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/25/2015 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h:\SJ%20Archive\2015\03-25-15.docx))

3/25/2015 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 6](file:///h:\SJ%20Archive\2015\03-25-15.docx))

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**VERSIONS OF THIS BILL**

[3/25/2015](file:///p:\pprever\2015-16\600_20150325.docx)

**A** **BILL**

TO AMEND SECTION 44‑6‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RESPONSIBILITIES OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, SO AS TO REQUIRE THE DEPARTMENT TO ADMINISTER A DIVISION OF DISABILITIES AND SPECIAL NEEDS; BY ADDING ARTICLE 9 TO CHAPTER 6, TITLE 44 SO AS TO CREATE THE DIVISION OF DISABILITIES AND SPECIAL NEEDS AS A DIVISION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO AMEND CHAPTER 20, TITLE 44, RELATING TO THE SOUTH CAROLINA INTELLECTUAL DISABILITY, RELATED DISABILITIES, HEAD INJURIES, AND SPINAL CORD INJURIES ACT, SO AS TO CREATE THE DIVISION OF DISABILITIES AND SPECIAL NEEDS WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO ABOLISH THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS; TO ABOLISH THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO PROVIDE THE DIVISION OF DISABILITIES AND SPECIAL NEEDS THE AUTHORITY OVER THE STATE’S SERVICES AND PROGRAMS FOR THE TREATMENT AND TRAINING OF INDIVIDUALS WITH INTELLECTUAL DISABILITY, RELATED DISABILITIES, HEAD INJURIES, AND SPINAL CORD INJURIES INCLUDING, BUT NOT LIMITED TO, INTAKE AND ASSESSMENT SERVICES, SERVICE PLANNING, DEVELOPMENT OF SERVICE STANDARDS, COORDINATION AND DELIVERY OF CLIENT SERVICES, AND JOB‑RELATED PLANNING AND PLACEMENT SERVICES; TO PROVIDE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES THE AUTHORITY TO PERFORM OFFICIAL ACTS OF THE DEPARTMENT, AND ITS DIVISIONS, OFFICES, AND PROGRAMS INCLUDING, BUT NOT LIMITED TO, THE AUTHORITY TO PROMULGATE REGULATIONS, TO ENTER INTO LEGAL CONTRACTS, TO ISSUE, DENY, AND REVOKE LICENSES TO OPERATE CERTAIN FACILITIES, TO CONDUCT HEARINGS TO REVIEW CLIENT COMPLAINTS, TO ADMINISTER FEDERAL FUNDS, TO REQUEST APPROPRIATIONS, AND TO RAISE MONIES FOR CAPITAL IMPROVEMENTS; TO REDESIGNATE THE INTELLECTUAL DISABILITY DIVISION, AUTISM DIVISION, AND HEAD AND SPINAL CORD INJURIES DIVISION AS OFFICES WITHIN THE DIVISION OF DISABILITIES AND SPECIAL NEEDS; AND TO SUBSTITUTE THE TERM “INDIVIDUAL” FOR “PERSON” WHEN THE TERM REFERS TO SOMEONE APPLYING FOR OR RECEIVING SERVICES FROM THE DIVISION; TO AMEND SECTIONS 44‑21‑10, 44‑21‑20, AND 44‑21‑30, ALL AS AMENDED, ALL RELATING TO THE FAMILY SUPPORT SERVICES PROGRAM, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 44‑23‑10, AS AMENDED, RELATING TO CHAPTER DEFINITIONS, SO AS TO ADD A DEFINITION FOR A PERSON WITH AN INTELLECTUAL DISABILITY; TO AMEND SECTIONS 44‑23‑220 AND 44‑23‑410, BOTH AS AMENDED, BOTH RELATING TO PERSONS WHO HAVE MENTAL ILLNESS AND INTELLECTUAL DISABILITIES, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 44‑26‑10, AS AMENDED, 44‑26‑70, AS AMENDED, 44‑26‑80, AS AMENDED, 44‑26‑100, 44‑26‑140, AS AMENDED, 44‑26‑180, AS AMENDED, AND 44-26-200, AS AMENDED, ALL RELATING TO RIGHTS OF CLIENTS WITH AN INTELLECTUAL DISABILITY, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 44‑28‑15 SO AS TO CREATE THE DIVISION OF DISABILITIES AND SPECIAL NEEDS; TO AMEND SECTIONS 44‑28‑20, 44‑28‑40, 44‑28‑60, 44‑28‑80, 44‑28‑360, AND 44‑28‑370, ALL RELATING TO THE SELF‑SUFFICIENCY AND DISABILITY TRUST FUND, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 44‑38‑30, 44‑38‑310, 44‑38‑320, 44‑38‑330, 44‑38‑340, 44‑38‑610, AND 44‑38‑630, AS AMENDED, ALL RELATING TO THE SOUTH CAROLINA HEAD AND SPINAL CORD INJURY INFORMATION SYSTEM, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 44‑38‑380, RELATING TO THE SOUTH CAROLINA HEAD AND SPINAL CORD INJURY SERVICE DELIVERY SYSTEM ADVISORY COUNCIL, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 1‑30‑23 SO AS TO TRANSFER THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS AND ITS DIVISIONS, OFFICES, AND PROGRAMS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS OF THE EXECUTIVE BRANCH, SO AS TO ELIMINATE THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO DIRECT THE CODE COMMISSIONER TO CHANGE CERTAIN REFERENCES IN THE CODE OF LAWS OF SOUTH CAROLINA, 1976, FROM THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS TO THE DIVISION OF DISABILITIES AND SPECIAL NEEDS AND CERTAIN REFERENCES FROM THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS AND THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND TO REPEAL SECTION 44‑20‑240 RELATING TO THE CREATION OF THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Effective July 1, 2015, the South Carolina Department of Disabilities and Special Needs shall become a division of the South Carolina Department of Health and Human Services with the director of the department being deemed the head of the division unless otherwise specified.

The South Carolina Commission on Disabilities and Special Needs, as provided for in Section 44‑20‑210, is abolished, and the South Carolina Department of Disabilities and Special Needs, as provided for in Section 44‑20‑240, is abolished.

SECTION 2. Section 44‑6‑30 of the 1976 Code, as last amended by Act 263 of 2004, is further amended to read:

“Section 44‑6‑30. The department shall:

(1) administer Title XIX of the Social Security Act (Medicaid), including the Early Periodic Screening, Diagnostic and Treatment Program, and the Community Long‑Term Care System;

(2) be designated as the South Carolina Center for Health Statistics to operate the Cooperative Health Statistics Program pursuant to the Public Health Services Act;

(3) administer the Division of Disabilities and Special Needs; and

~~(3)~~(4) except as provided in item (3), be prohibited from engaging in the delivery of services.”

SECTION 3. Chapter 6, Title 44 of the 1976 Code is amended by adding:

“Article 9

Division of Disabilities and Special Needs

Section 44‑6‑1110. For purposes of this article:

(1) ‘Department’ means the South Carolina Department of Health and Human Services.

(2) ‘Division’ means the Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.

Section 44‑6‑1120. (A) There is created within the South Carolina Department of Health and Human Services the Division of Disabilities and Special Needs.

(B) The division shall provide the services and perform the related duties as required in Chapter 20, Title 44. When requested by the department, other state agencies shall provide assistance or information necessary for the administration of the division and for the delivery of its services.”

SECTION 4. Chapter 20, Title 44 of the 1976 Code is amended to read:

“CHAPTER 20

South Carolina Intellectual Disability, Related Disabilities,

Head Injuries, and Spinal Cord Injuries Act

Article 1

General Provisions

Section 44‑20‑10. This chapter may be cited as the ‘South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act’.

Section 44‑20‑20. The State of South Carolina recognizes that ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury is ~~a person~~ an individual who experiences the benefits of family, education, employment, and community as do all citizens. It is the purpose of this chapter to assist ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries by providing services to enable them to participate as valued members of their communities to the maximum extent practical and to live with their families or in family settings in the community in the least restrictive environment available.

When ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries cannot live in communities or with their families, the State shall provide quality care and treatment in the least restrictive environment practical.

In order to plan and coordinate state and locally funded services for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries, a statewide network of local boards of disabilities and special needs is established. ~~Services will be delivered~~ These local boards shall deliver services to clients in their homes or communities ~~through these boards and other local providers~~.

It is recognized that ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries have the right to receive services from public and other agencies that provide services to South Carolina citizens and to have those services coordinated with the services needed because of their disabilities.

South Carolina recognizes the value of preventing intellectual disability, related disabilities, head injuries, and spinal cord injuries through education and research and supports efforts to this end.

The State recognizes the importance of the role of parents and families in shaping services for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries as well as the importance of providing services to families to enable them to care for a family member with these disabilities.

Admission to services of the ~~South Carolina Department~~ Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services does not terminate or reduce the rights and responsibilities of parents. Parental involvement and participation in mutual planning with the ~~department~~ division to meet the needs of the client facilitates decisions and treatment plans that serve the best interest and welfare of the client.

Section 44‑20‑30. As used in this chapter:

(1) ‘Applicant’ means ~~a person~~ an individual who is believed to have intellectual disability, one or more related disabilities, one or more head injuries, one or more spinal cord injuries, or an infant at high risk of a developmental disability who has applied for services of the ~~South Carolina Department~~ Division of Disabilities and Special Needs.

(2) ‘Client’ ~~is a person~~ means an individual who is determined by the ~~Department~~ Division of Disabilities and Special Needs to have intellectual disability, a related disability, head injury, or spinal cord injury and is receiving services or is an infant at risk of having a developmental disability and is receiving services.

(3) ~~‘Commission’ means the South Carolina Commission on Disabilities and Special Needs, the policy‑making and governing body of the Department of Disabilities and Special Needs.~~

~~(4)~~ ‘County disabilities and special needs boards’ means the local public body administering, planning, coordinating, or providing services within a county or combination of counties for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries and recognized by the ~~department~~ division.

~~(5)~~(4) ‘Day programs’ ~~are~~ means programs provided to ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries outside of their residences affording development, training, employment, or recreational opportunities as prescribed by the ~~Department~~ Division of Disabilities and Special Needs.

~~(6)~~(5) ‘Department’ means the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services.

~~(7)~~(6) ‘Director’ means the ~~South Carolina~~ Director of the   
South Carolina Department of ~~Disabilities and Special Needs, the chief executive director appointed by the commission~~ Health and Human Services.

~~(8)~~(7) ‘Disabilities and special needs services’ ~~are~~ means activities designed to achieve the results specified in an individual client’s plan.

(8) ‘Division’ means the Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.

(9) ‘High‑risk infant’ means a child less than thirty‑six months of age whose genetic, medical, or environmental history is predictive of a substantially greater risk for a developmental disability than that for the general population.

(10) ‘Least restrictive environment’ means the surrounding circumstances that provide as little intrusion and disruption from the normal pattern of living as possible.

(11) ‘Improvements’ means the construction, reconstruction of buildings, and other permanent improvements for regional centers and other programs provided by the department directly or through contract with county boards of disabilities and special needs, including equipment and the cost of acquiring and improving lands for equipment.

(12) ‘Intellectual disability’ means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(13) ‘Obligations’ means the obligations in the form of notes or bonds or contractual agreements issued or entered into by the ~~commission~~ department pursuant to the authorization of this chapter and of Act 1377 of 1968 to provide funds with which to repay the proceeds of capital improvement bonds allocated by the State Budget and Control Board.

(14) ‘Regional residential center’ ~~is~~ means a twenty‑four hour residential facility serving a multicounty area and designated by the ~~department~~ division.

(15) ‘Related disability’ ~~is~~ means a severe, chronic condition found to be closely related to intellectual disability or to require treatment similar to that required for ~~persons~~ individuals with intellectual disability ~~and must meet the following conditions~~ that: (a) ~~It~~ is attributable to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of ~~persons~~ individuals with intellectual disability and requires treatment or services similar to those required for these ~~persons.~~ individuals;

(b) ~~It~~ is manifested before twenty‑two years of age~~.~~;

(c) ~~It~~ is likely to continue indefinitely~~.~~; and

(d) ~~It~~ results in substantial functional limitations in three or more of the following areas of major life activity: self‑care, understanding and use of language, learning, mobility, self‑direction, and capacity for independent living.

(16) ‘Residential programs’ ~~are~~ means services providing dwelling places to clients for an extended period of time with assistance for activities of daily living ranging from constant to intermittent supervision as required by the individual client’s needs.

(17) ‘Revenues’ or ‘its revenues’ means revenue derived from paying clients at regional residential centers and community residences but does not include Medicaid, Medicare, or other federal funds received with the stipulation that they be used to provide services to clients.

(18) ‘State capital improvement bonds’ means bonds issued pursuant to Act 1377 of 1968.

(19) ‘State board’ ~~shall mean~~ means the State Budget and Control Board as constituted pursuant to Chapter 11, Title 1.

Article 3

Organization and System for Delivery of Services

Section 44‑20‑210. There is created the ~~South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district appointed by the Governor upon the advice and consent of the Senate. They shall serve for four years and until their successors are appointed and qualify. Members of the commission are subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240. A vacancy may be filled by the Governor for the unexpired portion of the term~~ Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services pursuant to Section 44‑6‑1120. The division has authority over all of the state’s services and programs for the treatment and training of individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The division must be comprised of an Intellectual Disability Office, an Autism Office, and a Head and Spinal Cord Injuries Office. The division may be divided into additional offices as may be determined by the director. Responsibility for all autistic services is transferred from the Department of Disabilities and Special Needs to the Department of Health and Human Services.

Section 44‑20‑220. The ~~commission~~ department shall determine the policy and promulgate regulations governing the operation of the ~~department~~ division and the employment of professional staff and personnel. ~~The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions. The commission shall appoint and in its discretion remove a South Carolina Director of Disabilities and Special Needs who is the chief executive officer of the department.~~ The ~~commission~~ department may appoint advisory committees it considers necessary to assist in the effective conduct of ~~its~~ the division’s responsibilities. The ~~commission~~ department may educate the public and state and local officials as to the need for the funding, development, and coordination of services for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries and promote the best interest of ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries. The ~~commission~~ department is authorized to promulgate regulations to carry out the provisions of this chapter and other laws related to intellectual disability, related disabilities, head injuries, or spinal cord injuries. In promulgating these regulations, the ~~commission~~ department ~~must~~ shall consult with the advisory committee of the division for which the regulations shall apply.

Section 44‑20‑230. ~~Subject to the supervision, direction, and control of the commission,~~ The director shall administer the policies and regulations established by the ~~commission~~ department. The director may appoint and in his discretion remove ~~all other officers and~~ employees of the ~~department subject to the approval of the commission~~ division.

~~Section 44‑20‑240.~~ ~~There is created the South Carolina Department of Disabilities and Special Needs which has authority over all of the state’s services and programs for the treatment and training of persons individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The department must be comprised of an Intellectual Disability Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions as may be determined by the director and approved and named by the commission. Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs.~~

Section 44‑20‑250. The ~~department~~ division shall coordinate services and programs with other state and local agencies for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries. The department through or on behalf of the division may negotiate and contract with local agencies, county boards of disabilities and special needs, private organizations, and foundations in order to implement the planning and development of a full range of services and programs for ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries subject to law and the availability of fiscal resources. The department has the same right to be reimbursed for expenses in providing disabilities and special needs services through a contractual arrangement as it has to be reimbursed for expenses provided through direct ~~departmental~~ division services. The ~~department~~ division shall develop service standards for programs of the ~~department~~ division and for programs for which the department through or on behalf of the division may contract and shall review and evaluate these programs on a periodic basis.

Section 44‑20‑255. (A) Upon execution of the deed as provided in subsection (B) ~~of this section~~, ownership of the tract of real property in Richland County described in Section 1 of Act 1645 of 1972 is confirmed in the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services as the successor agency to the South Carolina Department of ~~Mental Retardation~~ Disabilities and Special Needs.

(B) The State Budget and Control Board shall cause to be executed and recorded an appropriate deed conveying the tract to the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services.

(C) Proceeds of a subsequent sale of the tract that is the subject of this section may be retained by the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services for the benefit of the Division of Disabilities and Special Needs.

Section 44‑20‑260. The ~~department~~ division, with funds available for these purposes, may conduct research to determine the causes, proper treatment, and diagnosis of intellectual disability, related disabilities, head injuries, and spinal cord injuries and may use facilities and personnel under its control and management for carrying out the research so long as the rights of the client are preserved and prior consent is obtained pursuant to Section 44‑26‑180.

Section 44‑20‑270. The department is designated as the state’s intellectual disability, related disabilities, head injuries, and spinal cord injuries authority for the purpose of administering federal funds allocated to South Carolina for intellectual disability programs, related disability programs, head injury programs, and spinal cord injury programs. This authority does not include the functions and responsibilities granted to the South Carolina Department of Health and Environmental Control or to the South Carolina Department of Vocational Rehabilitation or the administration of the ‘State Hospital Construction and Franchising Act’.

Section 44‑20‑280. The department through or on behalf of the division may negotiate and contract with an agency of the United States or a state or private agency to obtain grants to assist in the expansion and improvement of services to ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries and may expend the grants under the terms and conditions of the award.

Section 44‑20‑290. The director or his designee may employ at regional centers security guards who are vested and charged with the powers and the duties of peace officers. ~~They~~ These officers may arrest felons and misdemeanants, eject trespassers, and, without warrant, arrest persons for disorderly conduct who are trespassers on the grounds of the regional center and have them tried in a court of competent jurisdiction. Officers so employed must be bonded and under the direct supervision of the South Carolina Law Enforcement Division and shall report directly to the director or his designee.

Section 44‑20‑300. The department may acquire motor vehicle liability insurance for employees operating department vehicles or private vehicles in connection with their official departmental duties to protect against liability.

Section 44‑20‑310. The department may sell timber from its forest lands with the proceeds from the sales to be deposited in the general fund of the State. Before a sale, the State Budget and Control Board shall consult with the State Forester to determine the economic feasibility of the sale, and a sale must not be made without the approval of the board.

Section 44‑20‑320. The department or any of its programs may accept gifts, bequests, devises, grants, and donations of money, real property, and personal property for use in expanding and improving services to ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries available to the people of this State. However, nothing may be accepted by the department with the understanding that it diminishes an obligation for paying care and maintenance charges or other monies due the department for services rendered. The ~~commission~~ department may formulate policies and promulgate regulations governing the disposition of gifts, bequests, devises, grants, and donations. If ~~they~~ monies are given to a specific service program of the ~~department they~~ division, the monies must remain and be used for that program only or to its successor program.

Section 44‑20‑330. The department may grant easements, permits, or rights‑of‑way on terms and conditions it considers to be in the best interest of the State, across, over, or under land held by the department for the construction of water, sewer, drainage, natural gas, telephone, telegraph, and electric power lines.

Section 44‑20‑340. (A) A person, hospital, or other organization may provide information, interviews, reports, statements, written memoranda, documents, or other data related to the condition and treatment of a client or applicant to the department or the division ~~,~~ ~~and no~~ without liability for damages or other relief ~~arises against the person, hospital, or organization~~ for providing the information or material to the department or division.

(B) All records pertaining to the identity of ~~a person~~ an individual whose condition or treatment has been studied by the ~~department~~ division are confidential and privileged information. However, upon the written request of the client, the client’s or applicant’s parent with legal custody, legal guardian, or spouse with the written permission of the client or applicant or under subpoena by a court of law, the ~~department~~ division may furnish pertinent records in its possession to appropriate parties.

Section 44‑20‑350. (A) Reasonable reimbursement to the State for its fiscal outlay on behalf of services rendered by the ~~department~~ division or any other agency authorized by the department to offer services to clients is a just obligation of the ~~person~~ individual with intellectual disability, a related disability, head injury, or spinal cord injury, his estate, or his parent or guardian under the conditions and terms provided in this section.

(B) The ~~department~~ division or an agency authorized by the department to offer services to clients may charge for its services. However, no service may be denied a client or his parent or guardian because of inability to pay part or all of the ~~department’s~~ division’s or other agency’s expenses in providing that service. ~~Where~~ If federal reimbursement is authorized for services provided, the department initially shall seek federal reimbursement. No charge or combination of charges may exceed the actual cost of services rendered. The ~~commission~~ department shall approve the procedures established to determine ability to pay and may authorize its designees to reduce or waive charges based upon its findings.

(C) Parents, guardians, or other responsible relatives must not be charged for regional center or community residential services provided by the ~~department~~ division for their child or ward. However, ~~a person~~ an individual receiving nonresidential services or his parent or guardian may be assessed a charge for services received, not to exceed cost. The ~~department~~ division with the approval of the ~~commission~~ department may determine for which services it charges.

(D) The department shall establish a hearing and review procedure so that a client or his parent or guardian may appeal charges made for services or may present to officials of the department information or evidence to be considered in establishing charges. The department may utilize legal procedures to collect lawful claims.

(E) The department may establish by regulation charges for other services ~~it~~ the division renders.

Section 44‑20‑355. The department shall assess and collect a fee on ~~all Intermediate Care Facilities~~ an immediate care facility for ~~the persons~~ individuals with intellectual disability, as defined in Section 44‑7‑130(19). ~~Providers~~ A provider holding ~~licenses~~ a license on ~~these facilities~~ an immediate care facility shall pay to the department a fee equal to eight dollars and fifty cents a patient day in these facilities. The department shall pay all proceeds from the fee into the general fund of the State.

Section 44‑20‑360. (A) The physical boundaries of Midlands Center, Coastal Center, Pee Dee Center, and Whitten Center are designated as independent school districts. These facilities may elect to participate in the usual activities of the districts, to receive state and federal aid, and to utilize other benefits enjoyed by independent school districts in general.

(B) The ~~commission operates as the~~ director shall appoint a board of trustees for these districts for administrative purposes, including the receipt and expenditure of funds granted to these districts for any purpose.

Section 44‑20‑365. ~~No~~ A regional center of the department may not be closed except as authorized by the General Assembly by law in an enactment that specifies by name the regional center to be closed.

Section 44‑20‑370. (A) The ~~department~~ division shall:

(1) notify applicants when they have qualified under the provisions of this chapter;

(2) establish standards of operation and service for county disabilities and special needs programs funded in part or in whole by state appropriations to the department or through other fiscal resources under its control;

(3) review service plans submitted by county boards of disabilities and special needs and determine priorities for funding plans or portions of the plans subject to available funds;

(4) review county programs covered in this chapter;

(5) offer consultation and direction to county boards; and

(6) take other action not inconsistent with the law to promote a high quality of services to ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries and their families.

(B) The ~~department~~ division shall seek to develop and utilize the most current and promising methods for the training of ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries. It shall utilize the assistance, services, and findings of other state and federal agencies. The ~~department~~ division shall disseminate these methods to county boards and programs providing related services.

Section 44‑20‑375. (A) Before July 1, 1992, county boards of disabilities and special needs must be created within a county or within a combination of counties by ordinance of the governing bodies of the counties concerned. The ordinance must establish the number, terms, appointment, and removal of board members and provide for their powers and duties in compliance with state law and the process for appointing board members which existed on January 1, 1991, must be preserved in the ordinance. However, where the county legislative delegation or county council recommends board members to the appointing authority, the delegation may transfer its authority to recommend to the council or the council may transfer its authority to the delegation. If there is a transfer, preservation of the authority to recommend existing on January 1, 1991, is not required, and the new recommending authority must be contained in the ordinance.

(B) County boards of disabilities and special needs established before January 1, 1991, shall continue to exist, operate, and function as they existed on January 1, 1991, until created by ordinance pursuant to subsection (A).

(C) After June 30, 1992, the department shall recognize only county boards of disabilities and special needs that plan, administer, or provide services to ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, and spinal cord injuries within a county or combination of counties which are created or established pursuant to this section, including those whose members are appointed by the Governor. A county board of disabilities and special needs created by ordinance before January 1, 1991, is considered created pursuant to this section, provided the ordinance includes and complies with the provisions of subsection (A).

(D) A county board of disabilities and special needs is a public entity.

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

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

Section 44‑20‑378. A county board of disabilities and special needs established pursuant to Section 44‑20‑375 ~~must~~ shall consist of not less than five members. If the board is created within a combination of counties, the number of members representing each county must be proportional to the county’s population in relation to the total population of the counties served by the board. However, a county participating in a multicounty board must not have less than two members. The term of the members is four years and until their successors are appointed and qualify. Vacancies for unexpired terms must be filled in the same manner as the original appointments. A member may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard.

Section 44‑20‑380. (A) County disabilities and special needs boards are encouraged to utilize lawful sources of funding to further the development of appropriate community services to meet the needs of ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries and their families.

(B) County boards may apply to the department for funds for community services development under the terms and conditions as may be prescribed by the department. The ~~department~~ division shall review the applications and, subject to state appropriations to the department or to other funds under the department’s control, may fund the programs it considers in the best interest of service delivery to the citizens of the State with intellectual disability, related disabilities, head injuries, or spinal cord injuries.

(C) Subject to the approval of the department, county boards may seek state or federal funds administered by state agencies other than the department, funds from local governments or from private sources, or funds available from agencies of the federal government. The county boards may not apply directly to the General Assembly for funding or receive funds directly from the General Assembly.

Section 44‑20‑385. Subject to the provisions of this chapter and the regulations of the department, each county disabilities and special needs board:

(1) is the administrative, planning, coordinating, and service delivery body for county disabilities and special needs services funded in whole or in part by state appropriations to the department or funded from other sources under the department’s control. It is a body corporate in deed and in law with all the powers incident to corporation including the power to incur debt insofar as that debt is payable from contract, grant, or other revenues and is not the debt of the State or its other political subdivisions. A county board may purchase and hold real and mortgage property and erect and maintain buildings. The department shall approve all debt of a county board to be paid in whole or in part from contract, grant, or other revenues provided by the State. However, the department has no responsibility for the debt so approved;

(2) shall submit an annual plan and projected budget to the department for approval and consideration of funding;

(3) shall review and evaluate on at least an annual basis the county disabilities and special needs services provided pursuant to this chapter and report its findings and recommendations to the department;

(4) shall promote and accept local financial support for the county program from private and other lawful sources and promote public support from municipal and county sources;

(5) shall employ personnel and expend its budget for the direct delivery of services or contract with those service vendors necessary to carry out the county intellectual disability, related disabilities, head injuries, and spinal cord injuries services program who meet specifications prescribed by the department;

(6) shall plan, arrange, implement, and monitor working agreements with other human service agencies, public and private, and with other educational and judicial agencies;

(7) shall provide the department records, reports, and access to its sponsored services and facilities the department may require and submit its sponsored services and facilities to licensing requirements of the department or to the licensing requirements of other state or local agencies having this legal authority; and

(8) shall represent the best interest of ~~persons~~ individuals with intellectual disability, related disabilities, head injuries, or spinal cord injuries to the public, public officials, and other public or private organizations.

Section 44‑20‑390. (A) In order to provide assistance to families and individuals, the ~~department~~ division shall provide an initial intake and assessment service to ~~a person~~ an individual believed to be in need of services and who makes application for ~~them~~ the individual. An assessment must be provided through diagnostic centers approved by the department. If upon completion of the assessment, the applicant is determined to have intellectual disability, a related disability, head injury, or spinal cord injury and be in need of services, ~~he~~ the individual may become a client of the ~~department~~ division and eligible for services. A service plan must be designated for each ~~person~~ individual assessed. ~~A person~~ An individual determined to have intellectual disability, a related disability, head injury, or spinal cord injury and who chooses to become a client of the ~~department~~ division, must be provided with the delivery or coordination of services by the ~~department~~ division. ~~A person~~ An individual determined not to have intellectual disability, a related disability, head injury, or spinal cord injury may be provided by the ~~department~~ division with referral and assistance in obtaining appropriate services or further evaluation.

(B) Service plans must recommend the services to assist the individual in developing to the fullest potential in the least restrictive environment available. The ~~department~~ division shall determine the ‘least restrictive environment’, and the department through or on behalf of the division may contract with ~~individuals or organizations~~ an individual or organization for a reasonable sum as determined by the department to provide the services. The ~~department~~ division shall review service plans of its clients at least periodically according to standards prescribing the frequency to ensure that appropriate services are being provided in the least restrictive environment available. The parents, a parent with legal custody, the legal guardian, the client, and other appropriate parties must be included in the review. The ~~department~~ division shall develop standards prescribing the service plan review.

(C) ~~No~~ An individual believed to have intellectual disability, a related disability, head injury, or spinal cord injury may not be admitted to the services of the ~~department~~ division until he has been examined at a diagnostic center of the department or a diagnostic center approved by the department and certified by the department on the basis of acceptable data to have intellectual disability, a related disability, head injury, or spinal cord injury or unless he is an infant at risk of a developmental disability and in need of the ~~department’s~~ division’s services.

(D) The applicant ~~shall meet~~ meets residency requirements ~~in at least one of the following categories~~ if:

(1) the applicant or his spouse, parent, with or without legal custody, or legal guardian is domiciled in South Carolina~~.~~;

(2) the applicant or his spouse, parent, with or without legal custody, or legal guardian lives outside South Carolina but retains legal residency in this State and demonstrates to the department’s satisfaction ~~his~~ the intent to return to South Carolina~~.~~; or

(3) the applicant or his spouse or parent, with or without legal custody, or legal guardian is a legal resident of a state which is an active member of the Interstate Compact on Mental Health and qualifies for services under ~~it~~ the compact.

Section 44‑20‑400. Upon the written request of the ~~person~~ individual, the ~~person’s~~ individual’s parents, a parent with legal custody, or a lawful custodian or legal guardian and subject to the availability of suitable accommodations and services, ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury may be admitted to the services of the ~~department~~ division for evaluation and diagnosis and shall remain in the residential services of the ~~department~~ division for that period required to complete the diagnostic study. However, this period may not exceed thirty days except upon approval of the director or his designee. ~~Individuals~~ An individual admitted ~~under~~ pursuant to the provisions of this section ~~are~~ is subject to the same regulations and departmental policies as regular admissions. The ~~department~~ division may prescribe the form of the written application for diagnostic services.

Section 44‑20‑410. ~~A person~~ An individual who is determined to be eligible for services is subject to the following considerations regarding his order of admission to services and programs:

(1) the relative need of the ~~person~~ individual for special training, supervision, treatment, or care; and

(2) the availability of services suitable to the needs of the ~~applicant~~ individual.

Section 44‑20‑420. The ~~director or his designee~~ division may designate the service or program in which a client is placed. The appropriate services and programs must be determined by the evaluation and assessment of the needs, interests, and goals of the client.

Section 44‑20‑430. The director or his designee has the final authority over applicant eligibility, determination, or services and admission order, subject to policies adopted by the ~~commission~~ department.

Section 44‑20‑440. Subject to the availability of suitable services and programs and subject to the provisions of ~~‘Requirement for Admission to Services’, ‘Order in which Person May be Admitted’,~~ Section 44‑20‑410 and ~~‘Final Authority over Eligibility’~~ Section 44‑20‑430, the director or his designee may admit a client to the services of the ~~department~~ division upon the written request of the parents of the ~~person~~ individual with intellectual disability, a related disability, head injury, or spinal cord injury, a parent with legal custody, spouse, lawful custodian or legal guardian, or the ~~person~~ individual with intellectual disability, a related disability, head injury, or spinal cord injury seeking to be admitted to the ~~department’s~~ division’s services if the ~~person~~ individual is twenty‑one years of age or over and competent to make the decision. The ~~department~~ division shall prescribe the form of the application for services.

Section 44‑20‑450. (A) ~~Proceedings~~ A proceeding for the involuntary admission of ~~a person~~ an individual with intellectual disability or a related disability to the services of the ~~department~~ division may be initiated by the filing of a verified petition with the probate or the family court by:

(1) the spouse;

(2) a relative;

(3) the parents;

(4) a parent with legal custody;

(5) the legal guardian of the ~~person~~ individual;

(6) the person in charge of a public or private institution in which the individual is residing at the time;

(7) the director of the county department of social services of the county in which the ~~person~~ individual resides; or

(8) a solicitor or an assistant solicitor responsible for ~~the~~ a criminal prosecution pursuant to Section 44‑23‑430(2).

Upon filing of the petition, the judge shall set a date for a hearing on it and ensure that the client has an attorney who represents him. The parents, a parent with legal custody, spouse, guardian, or nearest known relative of the ~~person~~ individual alleged to have intellectual disability or a related disability and in whose behalf the petition has been ~~made~~ filed and in the discretion of the court, the individual alleged to have intellectual disability or a related disability, and the department must be served by the court with a written notice of the time and place of the hearing, together with a written statement of the matters stated in the petition. If ~~no~~ a parent, spouse, legal guardian, or known relative of the ~~person~~ individual alleged to have intellectual disability or a related disability is not found, the court shall appoint a guardian ad litem to represent the ~~person alleged to have intellectual disability or a related disability~~ individual, and the notice must be served upon the guardian ad litem. If the parent, spouse, guardian, or known relative of the ~~person~~ individual alleged to have intellectual disability or a related disability is found, ~~he~~ that person must be notified of the right to an attorney at the hearing.

(B) The hearing on the petition may be in the courthouse or at the place of residence of the ~~person~~ individual alleged to have intellectual disability or a related disability or at another place considered appropriate by the court. The ~~person~~ individual alleged to have intellectual disability or a related disability does not need to be present if the court determines that the hearing would be injurious or detrimental to the ~~person alleged to have intellectual disability or a related disability~~ individual or if the ~~person’s~~ individual’s mental or physical condition prevents his participation in the hearing. However, ~~his~~ the individual’s attorney must be present.

(C) A report of the person in charge of the examination of the ~~person~~ individual alleged to have intellectual disability or a related disability at the diagnostic center referred to in ~~‘Requirement for Admission’~~ Section 44‑20‑410 must be submitted to the court at the hearing. The court may not render judgment in the hearing unless this report is available and introduced.

(D) If the court determines that the evidence presented by the examiners at the diagnostic center, along with other evidence presented to the court, is to the effect that the ~~person~~ individual does not in fact have intellectual disability or a related disability to an extent which would require commitment, it shall terminate the proceeding and dismiss the petition.

(E) If the ~~person~~ individual is found by the court to have intellectual disability or a related disability and be in need of placement in a facility or service program of the department, the court shall order that ~~he~~ the individual be admitted to the jurisdiction of the department as soon as necessary services are available and include in the order a summary of the evidence presented and order of the court.

(F) The department shall inform the court as soon after the date of the order as practical that suitable accommodations and services are available to meet the needs of the ~~person~~ individual with intellectual disability or a related disability. Upon notification, the court shall direct the petitioner in these proceedings to transport the ~~person~~ individual with intellectual disability or a related disability to a program the department designates.

(G) A party to these proceedings may appeal from the order of the court to the court of common pleas, and a trial de novo with a jury must be held in the same manner as in civil actions unless the petitioner through his attorney waives his right to a jury trial. Pending a final determination of the appeal, the ~~person~~ individual with intellectual disability or a related disability must be placed in protective custody in either a facility of the department or in some other suitable place designated by the court. ~~No person~~ An individual with intellectual disability or a related disability must not be confined in jail unless there is a criminal charge pending against him.

Section 44‑20‑460. (A) ~~A person~~ An individual admitted or committed to the services of the ~~department~~ division remains a client and is eligible for services until discharged. When the ~~department~~ division determines that a client admitted to services is no longer in need of them, the director or his designee may discharge him. When the only basis of the ~~department’s~~ division’s provision of services to a client is that he is ~~a person~~ an individual with intellectual disability or a related disability and it is determined that he is no longer in that condition, the director or his designee shall discharge him as soon as practical. A client of the ~~department~~ division who is receiving residential services may be released to his spouse, parent, guardian, or relative or another suitable person for a time and under conditions the director or his designee may prescribe.

(B) When a client voluntarily admitted requests discharge or the person upon whose application the client was admitted to the ~~department’s~~ division’s services requests discharge in writing, the client may be detained by the department for no more than ninety‑six hours. However, if the condition of the ~~person~~ individual is considered by the ~~director or his designee~~ division to be such that he cannot be discharged with safety to himself or with safety to the general public, the director or his designee may postpone the requested discharge for not more than fifteen days and cause to be filed an application for judicial admission. For the purpose of this section, the probate court or family court of the county in which the facility where the ~~person~~ individual with intellectual disability or a related disability resides is located is the venue for judicial admission. Pending a final determination on the application, the court shall order the ~~person~~ individual with intellectual disability or a related disability placed in protective custody in either a facility of the department or in some other suitable place designated by the court.

Section 44‑20‑470. (A) The department may return a nonresident ~~person~~ individual with intellectual disability or a related disability admitted to a service or program in this State to the proper agency of the state of his residence.

(B) The department is authorized to enter into reciprocal agreements with the proper agencies of other states to facilitate the return to the state of their residence persons admitted or committed to services for ~~persons~~ individuals with intellectual disability or a related disability in this State or other states.

(C) The department may detain ~~a person~~ an individual with intellectual disability or a related disability returned to this State from the state of his commitment for not more than ninety‑six hours pending order of the court in commitment proceedings in this State.

(D) The expense of returning ~~persons~~ individuals with intellectual disability or a related disability to other states must be paid by this State, and the expense of returning residents of this State with intellectual disability or a related disability must be paid by the state making the return when interstate agreements to that effect have been negotiated.

Section 44‑20‑480. ~~When~~ If the ~~department~~ division determines that the welfare of a client would be facilitated by his placement out of the home, the client must be evaluated by the ~~department~~ division, and the least restrictive level of care possible for the client must be recommended and provided when available. The ~~department~~ division shall determine which levels of care are more restrictive and is responsible for providing a range of placements offering various levels of supervision. The department may pay an individual or organization furnishing residential alternatives to clients ~~under~~  pursuant to this section a reasonable sum for services rendered, as determined by the department.

Section 44‑20‑490. (A) ~~When~~ If the ~~department~~ division determines that a client may benefit from being placed in an employment situation, the ~~department~~ division shall regulate the terms and conditions of employment, shall supervise ~~persons~~ individuals with intellectual disability, a related disability, head injury, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served.

(B) The ~~department~~ division may operate sheltered employment and training programs at ~~its~~ the department’s various facilities and in communities and may pay clients employed in these settings from earnings of the program or from other funds available from the department for this purpose.

(C) Clients who receive job training and employment services from the ~~department~~ division must be compensated in accordance with applicable state and federal laws and regulations.

Section 44‑20‑500. ~~When~~ If a client is absent from a facility or program and there is probable cause the client may be in danger, the director or his designee may issue an order of confinement for the client. This order, when endorsed by the judge of the probate, family, or circuit court of the county in which the client is present or residing, authorizes a peace officer to take the client into custody for not more than twenty‑four hours and to return him or cause him to be returned to the place designated by the director or his designee.

Section 44‑20‑510. Placement of ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury in a program of the ~~department~~ division does not preclude his attendance in community‑based public school classes when the individual qualifies for the classes.

Article 5

Licensure and Regulation of Facilities and Programs

Section 44‑20‑710. ~~No~~ A day program ~~in~~ providing ~~part or in full~~ part time or full time for the care, training, or treatment of ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury may not deliver services unless the program first obtains a license ~~first is obtained~~ from the department. For the purpose of this article ‘~~in part~~ part time’ means a program operating for ten hours a week or more. Educational and training services offered under the sponsorship and direction of school districts and other state agencies are not required to be licensed under this article.

Section 44‑20‑720. The department shall establish minimum standards of operation and license programs provided for in ~~‘Facilities and Programs must be Licensed’~~ Section 44‑20‑710.

Section 44‑20‑730. In determining whether a license may be issued, the department shall consider if the program for which the license is applied conforms with the local and state service plans and if the proposed location conforms to use.

Section 44‑20‑740. ~~No~~ A day program may not accept ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury for services other than those for which it is licensed. ~~No~~ A program may not serve more than the number of clients as provided on the license. An applicant for a license shall file an application with the department in a form and under conditions the department may prescribe. The license must be issued for up to three years unless sooner suspended, revoked, or surrendered. The license is not transferable and must not be assigned.

Section 44‑20‑750. The department shall make day program inspections as it may prescribe by regulation. The day programs subject to this article may be visited and inspected by the director or his designees no less than annually and before the issuance of a license. Upon request, each program shall file with the department a copy of its bylaws, regulations, and rates of charges. The records of each licensed program are open to the inspection of the director or his designees.

Section 44‑20‑760. Information received by the department through licensing inspections or as otherwise authorized may be disclosed publicly upon written request to the department. The reports may not identify individuals receiving services from the ~~department~~ division.

Section 44‑20‑770. The department shall deny, suspend, or revoke a license ~~on any of the following grounds~~ for:

(1) failure to establish or maintain proper standards of care and service as prescribed by the ~~department~~ division;

(2) conduct or practices detrimental to the health or safety of residents or employees of the day program~~. This item does not apply to~~, except healing practices authorized by law; or

(3) violation of the provisions of this article or regulations promulgated under it.

Section 44‑20‑780. (A) The department shall give written notification to the governing board or if none, the operator of a program of deficiencies, and the applicant or licensee must be given a specified time in which to correct the deficiencies. If the department determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee by certified mail a notice setting forth the reason for the determination. The denial, suspension, or revocation becomes final fifteen calendar days after the mailing of the notice, unless the applicant or licensee within that time gives written notice of his desire for a hearing. If the applicant or licensee gives that notice, he must be given a hearing before the department and may present evidence. On the basis of the evidence, the determination must be affirmed or set aside by the director, and a copy of the decision, setting forth the findings of fact and the reasons upon which it is based must be sent by registered mail to the applicant.

(B) If an existing program has conditions or practices which, in the department’s judgment, provide an immediate threat to the safety and welfare of the ~~person~~ individual with intellectual disability, a related disability, head injury, or spinal cord injury served, the department may immediately suspend or revoke the license of the program. Notification of the program board or operator by certified mail of the license suspension or revocation also must include the reasons or conditions. A person operating a program which has had its license suspended or revoked must be punished as provided in ~~‘Injunctions; Penalties’~~ Section 44‑20‑900.

Section 44‑20‑790. The procedures governing hearings ~~authorized by ‘Notice of Deficiencies .’~~ pursuant to Section 44‑20‑780 must be in accordance with regulations promulgated by the department. The director may appoint a review team, including consumers, to assist in the collection of information pertinent to the hearing.

Section 44‑20‑800. An applicant or licensee who is dissatisfied with the decision of the department as a result of the hearing provided for ~~by ‘Procedures Governing Disciplinary Hearings .’~~ pursuant to Section 44‑20‑780 may appeal to ~~a South Carolina administrative law judge as provided in~~ the Administrative Law Court pursuant to Article 5, Chapter 23, Title 1.

Section 44‑20‑900. (A) The department, in accordance with the laws of the State governing injunctions and other processes, may maintain an action in the name of the State against a person for establishing, conducting, managing, or operating a day program for the care, training, and treatment of ~~a person~~ an individual with intellectual disability, a related disability, head injury, or spinal cord injury without obtaining a license as provided in this article. In charging a defendant in a complaint in the action, it is sufficient to charge that the defendant, upon a certain day and in a certain county, provided day program services without a license, without averring more particular facts concerning the charge.

(B) A person violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and two thousand dollars for a subsequent offense. Each day the day program operates after a first conviction is considered a subsequent offense.

Section 44‑20‑1000. Licensing by the department must be done in conjunction with and not in place of licensing by an agency having responsibilities outside the department’s jurisdiction. However, nothing in this section prevents the department from entering into cooperative agreements or contracts with an agency which has or may have licensing responsibilities in order to accomplish the licensing of programs.

Article 7

Capital Improvements for Disabilities and Special Needs

Section 44‑20‑1110. The department has authority for all of the state’s disabilities and special needs services and programs.

Section 44‑20‑1120. The ~~commission~~ department may raise monies for the construction of improvements under the terms and conditions of this article.

Section 44‑20‑1130. The aggregate of the outstanding principal amounts of state capital improvement bonds issued for the ~~commission~~ department for the benefit of the division may not exceed twenty million dollars.

Section 44‑20‑1140. If the ~~commission~~ department determines that improvements are required for a residential regional center or community facility, it may ~~make application~~ apply for them to the State Budget and Control Board. The application must contain:

(1) a description of the improvements sought and their estimated cost;

(2) the number of paying clients receiving services from the ~~department~~ division, the amount of fees received from the clients during the preceding fiscal year, and the estimated amount to be received from them during the next succeeding fiscal year;

(3) the revenues derived from the paying clients during the preceding three fiscal years;

(4) a suggested maturity schedule, which may not exceed twenty years, for the repayment of monies to be made available to the ~~commission~~ department for state capital improvement bonds;

(5) a statement showing the debt service requirements of other outstanding obligations.

Section 44‑20‑1150. The State Budget and Control Board may approve, in whole or in part, or may modify an application received from the ~~commission~~ department. If it finds that a need for the improvements sought by the ~~commission~~ department exists, it may contract to make available to the ~~commission~~ department funds to be realized from the sale of state capital improvements bonds if it finds that the revenues for the preceding fiscal year, if multiplied by the number of years, which may not exceed twenty, contemplated by the suggested or revised maturity schedule for the repayment of the monies to be made available to the ~~commission~~ department, result in the production of a sum equal to not less than one hundred twenty‑five percent of the aggregate principal and interest requirement of all outstanding obligations and all obligations to be incurred by the ~~commission~~ department.

Section 44‑20‑1160. Upon receiving the approval of the State Budget and Control Board the ~~commission~~ department shall obligate itself to apply all monies derived from its revenues to the payment of the principal and interest of its outstanding obligations and those to be issued and to deliver to the board its obligations.

Section 44‑20‑1170. (A) Following the execution and delivery of its obligations, the ~~commission~~ department shall remit to the State Treasurer all its revenues, including accumulated revenues not applicable to prior obligations, for credit to a special fund. The special fund must be applied to meet the sums due by the ~~commission~~ department under its obligations. These monies from the special fund must be applied by the State Treasurer to the payment of the principal of and interest on outstanding state capital improvement bonds.

(B) If the accumulation of revenues of the ~~commission~~ department in the special fund exceeds the payment due or to become due during the then current fiscal year and an additional sum equal to the maximum annual debt service requirement of the obligations for a succeeding fiscal year, the State Budget and Control Board may permit the ~~commission~~ department to withdraw the excess and apply it to improvements that have received the approval of the board or to transfer the excess out of the special fund for contract awards to local disabilities and special needs boards for needed improvements at the local level and for nonrecurring prevention, assistive technology, and quality initiatives at the regional centers and local boards.”

SECTION 5. Section 44‑21‑10(D) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(D) The General Assembly recognizes that the ~~South Carolina Department~~ Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services for several years has developed and maintained a family support program that provides support services to some families with members with intellectual disability. The success of this program demonstrates the need and value of family support services. More families in the State should be able to receive appropriate services and assistance needed to stabilize the family unit.”

SECTION 6. Section 44‑21‑20 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑21‑20. As used in this chapter:

(1) ‘Department’ means the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services.

(2) ‘Division’ means the Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.

~~(2)~~(3) ‘Family support’ means goods and services needed by individuals or families to care for themselves or their family members with intellectual disability or related disabilities or head injuries, spinal cord injuries, or similar disabilities and to enjoy a quality of life comparable to other community members.

~~(3)~~(4) ‘Family Support Program’ means a coordinated system of family support services administered by the department directly or through contracts with private nonprofit or governmental agencies across the State, or both.”

SECTION 7. Section 44‑21‑30 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑21‑30. The department through or on behalf of the division may contract with or make grants to agencies or individuals to provide for a Family Support Program in accordance with this chapter. Services and supports developed must be flexible to address individual and family needs.”

SECTION 8. Section 44‑23‑10(21) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(21) ‘Person with intellectual disability’ means a person, other than a person with a mental illness primarily in need of mental health services, whose inadequately developed or impaired intelligence and adaptive level of behavior require for the person’s benefit, or that of the public, special training, education, supervision, treatment, care, or control in the person’s home or community or in a service facility or program under the control and management of the ~~Department~~ Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.”

SECTION 9. Section 44‑23‑220 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑23‑220. ~~No~~ A person who is mentally ill or who has an intellectual disability ~~shall~~ may not be confined for safekeeping in ~~any~~ a jail. If it appears to the officer in charge of the jail that such a person is in prison, he ~~shall~~ immediately shall cause the person to be examined by two examiners designated by the Department of Mental Health or the Department of ~~Disabilities and Special Needs~~ Health and Human Services, or both, and if in their opinion admission to a mental health or intellectual disability facility is warranted, the officer in charge of the jail shall commence proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610, or Section 44‑21‑90. If hospitalization is ordered, the person ~~shall~~ must be discharged from the custody of the officer in charge of the jail and ~~shall~~ be admitted to an appropriate mental health or intellectual disability facility.”

SECTION 10. Section 44‑23‑410 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑23‑410. (A) Whenever a judge of the circuit court or family court has reason to believe that a person on trial before him, charged with the commission of a criminal offense or civil contempt, is not fit to stand trial because the person lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity, the judge shall:

(1) order examination of the person by two examiners designated by the Department of Mental Health if the person is suspected of having a mental illness or designated by the Department of ~~Disabilities and Special Needs~~ Health and Human Services if the person is suspected of having intellectual disability or having a related disability or by both sets of examiners if the person is suspected of having both mental illness and intellectual disability or a related disability. The examination must be made within thirty days after the receipt of the court’s order and may be conducted in any suitable place unless otherwise designated by the court; or

(2) order the person committed for examination and observation to an appropriate facility of the Department of Mental Health or the Department of ~~Disabilities and Special Needs~~ Health and Human Services for a period not to exceed fifteen days.

(B) Before the expiration of the examination period or the examination and observation period, the Department of Mental Health or the Department of ~~Disabilities and Special Needs~~ Health and Human Services, as appropriate, may apply to a judge designated by the Chief Justice of the South Carolina Supreme Court for an extension of time up to fifteen days to complete the examination or the examination and observation.

(C) If the person or the person’s counsel requests, the court may authorize the person to be examined additionally by a designated examiner of the person’s choice. However, the court may prescribe the time and conditions under which the independent examination is conducted.

(D) If the examiners designated by the Department of Mental Health find indications of intellectual disability or a related disability but not mental illness, the department ~~shall~~ must not render an evaluation on the person’s mental capacity, but shall inform the court that the person is ‘not mentally ill’ and recommend that the person should be evaluated for competency to stand trial by the Department of ~~Disabilities and Special Needs~~ Health and Human Services. If the examiners designated by the Department of ~~Disabilities and Special Needs~~ Health and Human Services find indications of mental illness but not intellectual disability or a related disability, the department ~~shall~~ must not render an evaluation on the person’s mental capacity, but shall inform the court that the person does ‘not have intellectual disability or a related disability’ and recommend that the person should be evaluated for competency to stand trial by the Department of Mental Health. If either the Department of Mental Health or the Department of ~~Disabilities and Special Needs~~ Health and Human Services finds a preliminary indication of a dual diagnosis of mental illness and intellectual disability or a related disability, this preliminary finding must be reported to the court with the recommendation that one examiner from the Department of Mental Health and one examiner from the Department of ~~Disabilities and Special Needs~~ Health and Human Services be designated to further evaluate the person and render a final report on the person’s mental capacity.”

SECTION 11. Section 44‑26‑10(2), (4), and (6) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(2) ‘Client’ means a person who is determined by the ~~South Carolina Department~~ Division of Disabilities and Special Needs to have intellectual disability or a related disability and is receiving services or is an infant at risk of having intellectual disability or a related disability and is receiving services.

(4) ‘Director’ means the ~~South Carolina~~ Director of ~~Disabilities and Special Needs~~ the South Carolina Department of Health and Human Services.

(6) ‘Department’ means the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services.”

SECTION 12. Section 44‑26‑10 of the 1976 Code, as last amended by Act 47 of 2011, is further amended by adding an appropriately numbered item at the end to read:

“( ) ‘Division’ means the Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.”

SECTION 13. Section 44‑26‑70(B) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(B) Human rights committees must be appointed by the director or his designee. Each committee consists of not less than the following five persons, except employees or former employees of the regional center or county/multicounty board must not be appointed:

(1) a family member of a person with intellectual disability or a related disability;

(2) a client of the ~~department~~ division, if appropriate;

(3) a representative of the community at large with expertise or a demonstrated interest in the care and treatment of persons with intellectual disability or related disabilities.”

SECTION 14. Section 44‑26‑80 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑26‑80. A client or his representative has the right to appeal decisions concerning the services or treatment provided by the ~~department~~ division, county/multicounty board, or contracted service provider. A human rights committee established in Section 44‑26‑70 shall review and advise on grievances concerning applicants or clients receiving services. The department shall establish policies and procedures for the review of grievances and the appeal of decisions. The director has final authority.”

SECTION 15. Section 44‑26‑100(B) of the 1976 Code is amended to read:

“(B) The ~~department~~ division shall determine what constitutes reasonable access for the rights provided in this section. Limitations imposed on the exercise of the rights by the client and the reasons for the limitations must be made part of the client’s record. The limitations are valid for no more than thirty days. The time may be extended an additional thirty days if, upon review, it is determined the client’s safety or habilitation warrants limitations of the rights. If the ~~department~~ division restricts rights, the reasons for the restriction and why the condition cannot be resolved in a less restrictive manner must be recorded in the client’s record.”

SECTION 16. Section 44‑26‑140(A) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(A) Clients receiving services for intellectual disability shall receive care and habilitation suited to their needs and in the least restrictive appropriate care and habilitation available. The care and habilitation must be administered skillfully, safely, and humanely with full respect for the client’s dignity and personal integrity. The ~~department~~ division shall make every effort, based on available resources, to develop services necessary to meet the needs of its clients.”

SECTION 17. Section 44‑26‑180 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑26‑180. A client or his representative shall give informed consent in every case before participation in research conducted by, for, or in cooperation with the ~~department~~ division. The department shall promulgate regulations to obtain informed consent and to protect the dignity of the individual.”

SECTION 18. Section 44‑26‑200 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑26‑200. The South Carolina State Employment Service Division of the South Carolina Department of Employment and Workforce and the State Agency of Vocational Rehabilitation shall work together to find employment for citizens with intellectual disability. Services must include, but are not limited to, counseling, referral, timely notification of job listings, and other services of ~~the~~ that division and the agency.”

SECTION 19. Article 1, Chapter 28, Title 44 of the 1976 Code is amended by adding:

“Section 44‑28‑15. For purposes of this chapter, the Division of Disabilities and Special Needs means the division created by the South Carolina Department of Health and Human Services pursuant to Section 44‑6‑1120.”

SECTION 20. Section 44‑28‑20 of the 1976 Code is amended to read:

“Section 44‑28‑20. For the purpose of this chapter ‘a self‑sufficiency trust’ means a trust created by a nonprofit corporation exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 and organized for purposes of providing care or treatment of one or more developmentally disabled, mentally ill, or physically handicapped persons eligible for services of the ~~South Carolina Department~~ Division of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation.”

SECTION 21. Section 44‑28‑40 of the 1976 Code is amended to read:

“Section 44‑28‑40. (A) The ~~South Carolina Department~~ Division of Disabilities and Special Needs, State Department of Mental Health, or the State Agency of Vocational Rehabilitation ~~must~~ shall provide care or treatment for a beneficiary from monies available from the beneficiary’s account maintained in the Self‑Sufficiency Trust Fund.

(B) Upon proper certification by the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation, the State Treasurer shall process vouchers from the Self‑Sufficiency Trust Fund accounts for services provided pursuant to this section.”

SECTION 22. Section 44‑28‑60 of the 1976 Code is amended to read:

“Section 44‑28‑60. If the State Treasurer after consultation with the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services, the State Department of Mental Health, or the State Agency of Vocational Rehabilitation determines that the money in the account of a named beneficiary cannot be used for supplemental care or treatment of the beneficiary in a manner consistent with the agreement or upon request of the trustee of the self‑sufficiency trust, the remaining money in the account and any accumulated interest promptly must be returned to the self‑sufficiency trust which deposited the money in the Self‑Sufficiency Trust Fund.”

SECTION 23. Section 44‑28‑80 of the 1976 Code is amended to read:

“Section 44‑28‑80. The South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services, the State Department of Mental Health, and the State Agency of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Self‑Sufficiency Trust Fund.”

SECTION 24. Section 44‑28‑360 of the 1976 Code is amended to read:

“Section 44‑28‑360. The ~~South Carolina Department~~ Division of Disabilities and Special Needs, State Department of Mental Health, or State Agency of Vocational Rehabilitation ~~must~~ shall provide care or treatment for the beneficiary from monies available from the Disability Trust Fund. These agencies are responsible only for the beneficiaries that meet their individual eligibility criteria.”

SECTION 25. Section 44‑28‑370 of the 1976 Code is amended to read:

“Section 44‑28‑370. The South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services, the State Department of Mental Health, and the State Department of Vocational Rehabilitation shall promulgate regulations necessary for the implementation and administration of the Disability Trust Fund.”

SECTION 26. Section 44‑38‑30(A) of the 1976 Code is amended to read:

“(A) There is the South Carolina Head and Spinal Cord Injury Information System Council established for the purpose of overseeing the daily activities of the system which ~~shall be~~ operates under the Head and Spinal Cord Injury ~~Division~~ Office of the ~~Department~~ Division of Disabilities and Special Needs. The council is composed of the following ex officio members or their designees: the chairman, Developmental Disabilities Council, Office of the Governor, the chairman of the Joint Committee to Study the Problems of Persons with Disabilities, the State Director of the State Department of Mental Health, the Commissioner of the Department of Vocational Rehabilitation, the Director of the ~~State~~ South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services, the Chief Executive Officer of the Division of Disabilities and Special Needs, the Director of the South Carolina Department of Health and Environmental Control, the Director of the South Carolina Department of Health and Human Services, Dean of the University of South Carolina School of Medicine, the Dean of the Medical University of South Carolina, the Executive Director of the South Carolina Hospital Association, one representative from each of the head injury advocacy organizations, and one individual with a spinal cord injury. The council shall elect a chairman who may appoint such other nonvoting members who may serve in an advisory capacity to the council, including representatives from the private service delivery sector.”

SECTION 27. Section 44‑38‑310 of the 1976 Code is amended to read:

“Section 44‑38‑310. There is established within the ~~Department~~ Division of Disabilities and Special Needs the South Carolina Head and Spinal Cord Injury Service Delivery System. The system shall operate as ~~a division~~ an office of the ~~department~~ division to be known as the Head and Spinal Cord Injury ~~Division~~ Office. The ~~department must~~ division shall develop, coordinate, and enhance the delivery of services to persons with head and spinal cord injuries. The ~~department must~~ division shall coordinate case management services provided pursuant to this article with the Department of Vocational Rehabilitation. Services provided pursuant to this article supplement and do not supplant existing services or the development of new services.”

SECTION 28. Section 44‑38‑320 of the 1976 Code is amended to read:

“Section 44‑38‑320. As used in this article:

(1) ‘System’ means the South Carolina Head and Spinal Cord Injury Service Delivery System as established in this article~~;~~.

(2) ‘State plan’ means the plan developed by the ~~State~~ South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services pursuant to this article for a comprehensive system of services for persons with head and spinal cord injuries.

(3) ‘Department’ means the South Carolina Department of ~~Disabilities and Special Needs~~ Health and Human Services.

(4) ‘Division’ means the Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services.”

SECTION 29. Section 44‑38‑330 of the 1976 Code is amended to read:

“Section 44‑38‑330. The primary functions of the system are planning, intake and referral, case management, and education and prevention. The ~~department~~ division is responsible for these functions.”

SECTION 30. Section 44‑38‑340 of the 1976 Code is amended to read:

“Section 44‑38‑340. The department in coordination with the division shall:

(1) develop a state plan for a comprehensive system of services for persons with head and spinal cord injuries, including short‑term and long‑term goals and objectives for implementing the plan;

(2) receive surveillance data from the South Carolina Head and Spinal Cord Injury Information System to use in developing and revising the state plan to meet the changing needs of this population;

(3) identify gaps in services for head and spinal cord injured persons and spearhead development of those services needed for the comprehensive system of service delivery;

(4) develop licensing, program, and contract guidelines to be used by case managers in working with service delivery agencies;

(5) in conjunction with other state agencies, prepare, coordinate, and advocate for state appropriations needed to fund and to develop services needed to implement the state plan;

(6) seek funding from other sources, private and federal, including, but not limited to, medicaid waivers and expansion of the medicaid program, to provide services outlined in the state plan;

(7) evaluate the state plan including, but not limited to, how well head and spinal cord injured persons are identified, referred, and served by the system and its impact on their quality of life, including reintegration and productivity in the community;

(8) promote public awareness through programs relating to head and spinal cord injury prevention, treatment, and rehabilitation;

(9) promote research on the causes, effects, prevention, treatment, and rehabilitation of head and spinal cord injuries.

(10) serve as the central and initial point for receiving referrals for case management services from the South Carolina Head and Spinal Cord Injury Information System and all other sources;

(11) determine a person’s eligibility for case management services based on criteria provided in Section 44‑38‑370, conduct an assessment of services needed, and provide appropriate case management based on an individualized treatment plan designed to meet the specific needs of the person;

(12) develop policies and procedures to be used by the case managers to ensure, among other things, that a person with a head or spinal cord injury receives equal access to available services and that case management services maximize the person’s self‑determination and self‑advocacy;

(13) develop training programs for case managers and other professionals to prepare and assist them in working with persons with head and spinal cord injuries;

(14) coordinate the delivery of services and ensure that services are appropriate and delivered in a timely manner;

(15) advocate for persons with head and spinal cord injuries to assist them in receiving equal access to services and services which promote independence and productivity.”

SECTION 31. Section 44‑38‑380(A)(1)(b) and (D) of the 1976 Code is amended to read:

“(A) There is created an Advisory Council to the South Carolina Head and Spinal Cord Service Delivery System composed of:

(1) the following members or a designee, who shall serve ex officio:

(b) ~~Director~~ Chief Executive Officer of the ~~State Department~~ Division of Disabilities and Special Needs;

(D) The Advisory Council shall work with the ~~State Department~~ Division of Disabilities and Special Needs and the State Agency of Vocational Rehabilitation in carrying out their responsibilities under this article. In working with these agencies the council shall, but is not limited to:

(1) provide oversight for the implementation of the state plan and operation of the system;

(2) review budget matters related to the system and the responsibilities of the agencies within the system;

(3) monitor effectiveness of the state plan.”

SECTION 32. Section 44‑38‑610 of the 1976 Code, as added by Act 63 of 2013, is amended to read:

“Section 44‑38‑610. There is created the South Carolina Brain Injury Leadership Council, within the ~~Department~~ Division of Disabilities and Special Needs, to provide statewide coordination in promoting support services to persons with brain injuries, their families, and caregivers, and to identify emerging issues and innovations, foster education and advocacy, and build consensus to support necessary policies and programs.”

SECTION 33. Section 44‑38‑630(A)(7) and (8) of the 1976 Code, as added by Act 63 of 2013, is amended to read:

“(A) The members of the South Carolina Brain Injury Leadership Council should have knowledge or expertise in the area of brain injury or related services. The council ~~shall~~ must be comprised of representatives of the following agencies and organizations~~, shall be~~ who are appointed by the director of the agency or organization and shall serve ex officio:

(7) ~~South Carolina Department~~ Division of Disabilities and Special Needs of the South Carolina Department of Health and Human Services;

(8) Head and Spinal Cord Injury ~~Division~~ Office within the ~~South Carolina Department~~ Division of Disabilities and Special Needs;”

SECTION 34. Chapter 30, Title 1 of the 1976 Code is amended by adding:

“Section 1‑30‑23. Effective July 1, 2015, the Department of Disabilities and Special Needs, and its divisions, offices, programs, and boards, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the department and its divisions, programs, and boards, are transferred to and incorporated in and must be administered as part of the Department of Health and Human Services.”

SECTION 35. Section 1‑30‑10(A) of the 1976 Code, as last amended by Act 121 of 2014, is further amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

~~1.~~ (1)Department of Administration

~~2.~~ (2) Department of Agriculture

~~3.~~ (3) Department of Alcohol and Other Drug Abuse Services

~~4.~~ (4) Department of Commerce

~~5.~~ (5) Department of Corrections

~~6.~~ ~~Department of Disabilities and Special Needs~~

~~7.~~ (6) Department of Education

~~8.~~ (7) Department of Health and Environmental Control

~~9.~~ (8) Department of Health and Human Services

~~10.~~ (9) Department of Insurance

~~11.~~ (10) Department of Juvenile Justice

~~12.~~ (11) Department of Labor, Licensing and Regulation

~~13.~~ (12) Department of Mental Health

~~14.~~ (13) Department of Motor Vehicles

~~15.~~ (14) Department of Natural Resources

~~16.~~ (15) Department of Parks, Recreation and Tourism

~~17.~~ (16) Department of Probation, Parole and Pardon Services

~~18.~~ (17) Department of Public Safety

~~19.~~ (18) Department of Revenue

~~20.~~ (19) Department of Social Services

~~21.~~ (20) Department of Transportation

~~22.~~ (21) Department of Employment and Workforce.”

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

SECTION 37. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 38. (A) Where the provisions of this act transfer the Department of Disabilities and Special Needs, the associated employees, authorized appropriations, and assets and liabilities also are transferred to and become part of the Department of Health and Human Services. All classified or unclassified personnel employed by the Department of Disabilities and Special Needs, either by contract or by employment at will, become on July 1, 2015, employees of the Department of Health and Human Services, with the same compensation, classification, and grade level, as applicable. Before abolition of the Department of Disabilities and Special Needs and the transfer to the Department of Health and Human Services, the Department of Disabilities and Special Needs shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(B) Applicable regulations promulgated by the Department of Disabilities and Special Needs are continued and are deemed to be promulgated by the Department of Health and Human Services until such time as the Department of Health and Human Services amends or repeals these regulations. Contracts entered into by the Department of Disabilities and Special Needs are continued and are deemed to be assigned to the Department of Health and Human Services at the time of the transfer.

SECTION 39. The Code Commissioner is directed to change all references to the “South Carolina Commission on Disabilities and Special Needs” in the Code of Laws, South Carolina, 1976, to the “South Carolina Department of Health and Human Services” and all references in the Code of Laws, South Carolina, 1976, to the “South Carolina Department of Disabilities and Special Needs”, which relate to the delivery of services to individuals with disabilities as provided for in Chapter 20, Title 44, to the “Division of Disabilities and Special Needs” and those which relate to official actions of the agency to the “South Carolina Department of Health and Human Services”.

SECTION 40. Section 44‑20‑240 of the 1976 Code is repealed.

SECTION 41. This act takes effect July 1, 2015.

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