**A** **BILL**

TO AMEND SECTION 1-30-35 OF THE 1976 CODE, RELATING TO THE COMPOSITION AND GOVERNANCE OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, TO PROVIDE THAT THE DEPARTMENT SHALL BE HEADED BY A DIRECTOR WHO IS APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE; TO AMEND SECTION 44-3-210 OF THE 1976 CODE, RELATING TO THE CREATION OF THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, TO ELIMINATE THE COMMISSION AS THE GOVERNING BODY OF THE DEPARTMENT AND TO REENACT THE ESTABLISHMENT OF THE DEPARTMENT AND ITS POWERS AND DUTIES; TO AMEND SECTION 44-3-220 OF THE 1976 CODE, RELATING TO THE POWERS AND DUTIES OF THE COMMISSION, TO ELIMINATE THE POWERS AND DUTIES OF THE COMMISSION, TO PROVIDE THAT THE DEPARTMENT FALLS WITHIN THE GOVERNOR’S CABINET, AND TO PROVIDE THAT THE DEPARTMENT’S ADMINISTRATIVE HEAD IS A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; TO AMEND SECTION 44-3-230 OF THE 1976 CODE, RELATING TO THE POWERS AND DUTIES OF THE DIRECTOR, TO TRANSFER POWERS AND DUTIES VESTED IN THE COMMISSION TO THE DIRECTOR; TO AMEND SECTION 44-3-240 OF THE 1976 CODE, RELATING TO THE CREATION OF THE DEPARTMENT, TO TRANSFER FROM THE COMMISSION TO THE DEPARTMENT THE AUTHORITY TO PROMULGATE REGULATIONS; TO AMEND SECTION 44-20-320 OF THE 1976 CODE, RELATING TO POLICIES AND REGULATIONS RELATING TO THE ACCEPTANCE OF GIFTS BY THE DEPARTMENT, TO MAKE CONFORMING CHANGES; TO AMEND SECTION 44-20-350 OF THE 1976 CODE, RELATING TO REIMBURSEMENT TO THE STATE FOR ITS FISCAL OUTLAY ON BEHALF OF THE DEPARTMENT, TO MAKE CONFORMING CHANGES; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 1-30-35 of the 1976 Code is amended to read:

“Section 1-30-35. (A) ~~Effective on July 1, 1993, the~~ The following agencies, boards, and commissions, 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 any such agency, except for those subdivisions specifically included under another department, are ~~hereby~~ ~~transferred to and~~ incorporated in and ~~shall be~~ administered as part of the Department of Disabilities and Special Needs, which was ~~to be~~ initially divided into divisions for Intellectual Disability, Head and Spinal Cord Injury, and Autism; provided, however, that the board of the former Department of Mental Retardation as constituted on June 30, 1993, and thereafter, under the provisions of Section 44-19-10, et seq., ~~shall be~~ is the governing authority for the department~~.~~:

~~(A)~~(1) Department of Mental Health Autism programs, formerly provided for at Section 44-9-10, et seq.;

~~(B)~~(2) Head and Spinal Cord Injury Information System, formerly provided for at Section 44-38-10, et seq.;

~~(C)~~(3) Department of Mental Retardation, formerly provided for at Section 44-19-10, et seq.

(B) The Department of Disabilities and Special Needs is headed by a director who is appointed by the Governor, upon the advice and consent of the Senate. The director may be removed from office by the Governor in the manner provided for in Section 1-3-240(B).”

SECTION 2. A. Section 44-20-30(7) of the 1976 Code is amended to read:

“(7) ‘Director’ means the ~~South Carolina Director~~ administrative head of the Department of Disabilities and Special Needs~~, the chief executive director appointed by the commission~~.”

B. Section 44-20-30(3) of the 1976 Code is deleted.

SECTION 3. Section 44-20-210 through Section 44-20-240 of the 1976 Code is amended to read:

“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.~~ 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 with intellectual disabilities, 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. The responsibility for all autistic services is transferred to the department from the Department of Mental Health.

Section 44-20-220. ~~The commission shall determine the policy and promulgate regulations governing the operation of the department 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 may appoint advisory committees it considers necessary to assist in the effective conduct of its responsibilities. The commission may educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries and promote the best interest of persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries. The commission 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 must consult with the advisory committee of the division for which the regulations shall apply.~~ The department is a member of the Governor's executive cabinet. The department’s administrative head is a director who is to be appointed by the Governor with the advice and consent of the Senate. The director is subject to removal from office by the Governor pursuant to Section 1-3-240(B).

Section 44-20-230. (A) ~~Subject to the supervision, direction, and control of the commission, the~~ The director shall administer the ~~policies~~ department’s programs and operations as established by law and regulations ~~established by the commission~~. The director may appoint and in his discretion remove all other officers and employees of the department ~~subject to the approval of the commission~~.

(B) The director, and his designees, shall educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with intellectual disabilities, related disabilities, head injuries, and spinal cord injuries and shall promote the best interest of persons with intellectual disabilities, related disabilities, head injuries, and spinal cord injuries.

(C) The director may appoint advisory committees as necessary to assist in the effective conduct of his responsibilities.

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 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.~~ The department is authorized to promulgate regulations to carry out the provisions of this chapter and other laws related to intellectual disabilities, related disabilities, head injuries, or spinal cord injuries. In promulgating these regulations, the department must consult with the advisory committee of the division for which the regulations shall apply, if the director has established an advisory committee for the division in question.”

SECTION 4. Section 44-20-320 of the 1976 Code is amended to read:

“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 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~~ director may formulate policies and promulgate regulations governing the disposition of gifts, bequests, devises, grants, and donations. If they are given to a specific service program of the department they must remain and be used for that program only or to its successor program.”

SECTION 5. Section 44-20-350 of the 1976 Code is amended to read:

“Section 44-20-350. (A) Reasonable reimbursement to the State for its fiscal outlay on behalf of services rendered by the department or any other agency authorized by the department to offer services to clients is a just obligation of the person 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 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 or other agency's expenses in providing that service. Where 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~~ director 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 for their child or ward. However, a person receiving nonresidential services or his parent or guardian may be assessed a charge for services received, not to exceed cost. The department ~~with the approval of the commission~~ 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 renders.”

SECTION 6. This act takes effect upon approval by the Governor.

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