

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 381\***

Short Title: Mental Health System Reform. (Public)

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Sponsors: Representatives Insko; Alexander, Barefoot, Crawford, and Hackney.

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Referred to: Mental Health.

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March 1, 2001

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

23 **"§ 122C-2. Policy.**

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

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

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

14 (1) Screening, assessment, and referral.

15 (2) Emergency services.

16 (3) Case support.

17 (4) Prevention, consultation, and education.

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

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

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

25 "(1) 'Administering county' means a county that operates a single-county  
26 program or the county that is responsible for the (i) budget and fiscal  
27 control, and (ii) the appointment of a program director, for a multi-  
28 county program.

29 (2) 'Core services' are those services that are basic, essential, and  
30 universally available to all individuals.

31 (3) 'Local program' means a program certified by the Secretary to provide  
32 mental health, developmental disabilities, and substance abuse  
33 services.

34 (4) 'Local program board' or 'program board' means the local program  
35 board established pursuant to Article 3B of this Chapter.

36 (5) 'Multicounty program' means a local program that serves a multi-  
37 county service area.

38 (6) 'Program director' means the individual employed pursuant to Article  
39 3B of this Chapter to administer the local program.

40 (7) 'Single-county program' means a local program operated as a  
41 department of the county and that serves a single-county service area.

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

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

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

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

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

11 ...

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

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

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

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

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

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

31 **"§ 122C-6. Scope of Chapter.**

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

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

42 **"§ 122C-64. Human rights committees.**

43 Human rights committees responsible for protecting the rights of clients shall be  
44 established at each State facility and may be established for area ~~authorities.authorities~~

1 and local programs. The Commission shall adopt rules for the establishment of  
2 committees. These rules shall include the composition and duties of the committees and  
3 procedures for appointment of the members by the Secretary for State ~~facilities and~~  
4 facilities, by the area board for area ~~authorities~~authorities, and by the administering  
5 county for local programs."

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

8 **"§ 122C-102. Scope.**

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

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

14 "Article 3B.

15 "Organization and System for Delivery of  
16 Mental Health, Developmental Disabilities, and  
17 Substance Abuse Services.

18 "Part 1.

19 "Policy.

20 **"§ 122C-83. Scope and policy.**

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

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

32 "Part 2.

33 "Administration.

34 **"§ 122C-84. State and local system administration.**

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

41 **"§ 122C-85. Powers and duties of the Secretary.**

42 (a) The Secretary shall do all of the following:

43 (1) Develop a State Plan for mental health, developmental disabilities, and  
44 substance abuse services.

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

- 1                   and fiscal accountability. The Secretary shall further ensure that the  
2                   practices are consistent with professionally accepted accounting and  
3                   management principles.
- 4           (19) Provide technical assistance to counties in the development of local  
5           program business plans and other matters, as requested by the county.
- 6           (20) Develop a methodology to be used for calculating county resources to  
7           reflect cash and in-kind contributions of the county.
- 8           (21) Adopt rules establishing program evaluation and management of  
9           mental health, developmental disabilities, and substance abuse  
10           services.
- 11           (22) Adopt rules regarding the requirements of the federal government for  
12           grants-in-aid for mental health, developmental disabilities, or  
13           substance abuse programs which may be made available to local  
14           programs or the State. This section shall be liberally construed in order  
15           that the State and its citizens may benefit from the grants-in-aid.
- 16           (23) Adopt rules for determining minimally adequate services for purposes  
17           of G.S. 122C-99 and G.S. 122C-100.
- 18   (b) The Secretary may do the following:
- 19           (1) Acquire by purchase or otherwise in the name of the Department  
20           equipment, supplies, and other personal property necessary to carry out  
21           the mental health, developmental disabilities, and substance abuse  
22           programs.
- 23           (2) Sponsor training opportunities in the fields of mental health,  
24           developmental disabilities, and substance abuse.
- 25           (3) Promote and conduct research in the fields of mental health,  
26           developmental disabilities, and substance abuse.
- 27           (4) Provide technical assistance for the development and improvement of  
28           mental health, developmental disabilities, and substance abuse  
29           services.
- 30           (5) Receive donations of money, securities, equipment, supplies, or any  
31           other personal property of any kind or description which shall be used  
32           by the Secretary for the purpose of carrying out mental health,  
33           developmental disabilities, and substance abuse programs. Any  
34           donations shall be reported to the Office of State Budget, Planning,  
35           and Management as determined by that office.
- 36           (6) Accept, allocate, and spend any federal funds for mental health,  
37           developmental disabilities, and substance abuse activities that may be  
38           made available to the State by the federal government. This Chapter  
39           shall be liberally construed in order that the State and its citizens may  
40           benefit fully from these funds. Any federal funds received shall be  
41           deposited with the State Treasurer and shall be appropriated by the  
42           General Assembly for the mental health, developmental disabilities, or  
43           substance abuse purposes specified.
- 44           (7) Enter agreements authorized by G.S. 122C-346.

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

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

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

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

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

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

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

37           (11) Require reports of client characteristics, staffing patterns, agency  
38           policies or activities, services, or specific financial data of the local  
39           program. The reports shall not identify individual clients of the local  
40           program unless specifically required by State law or by federal law or  
41           regulation or unless valid consent for the release has been given by the  
42           client or legally responsible person.

43           (c)    The Secretary shall conduct regularly scheduled monitoring and oversight of  
44           local programs. Monitoring and oversight shall include compliance with the local

1 program business plan, core administrative functions, fiscal, and administrative  
2 practices. Monitoring and oversight shall also address outcome measures, consumer  
3 satisfaction, human rights and client rights complaints, and adherence to best practices.  
4 The Secretary shall make findings and recommendations based on information and data  
5 collected pursuant to this section and shall report these findings and recommendations  
6 for improvement to the county commissioners of the administering county and the Local  
7 Ombudsman Office.

8 **"§ 122C-86. Cooperation between Secretary and other agencies.**

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

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

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

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

31 **"§ 122C-87. Powers and duties of the Commission.**

32 The Commission shall have authority as provided by this Chapter, Chapters 90 and  
33 148 of the General Statutes, and by G.S. 143B-147.

34 **"§ 122C-88. Powers and duties of counties.**

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

37 (b) A county shall, in accordance with Article 3B of this Chapter, operate a  
38 single-county program or participate in the administration of a multicounty program. To  
39 the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-  
40 77(a) control.

41 (c) The governing unit of a local program is the board of county commissioners  
42 of the administering county. The governing unit of a local program may exercise all  
43 powers, duties, functions, rights, privileges, or immunities conferred on the local  
44 program.



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

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

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

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

13          (3) Appoint a program director to carry out the provisions of G.S. 122C-  
14 95 and other applicable provisions of this Chapter.

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

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

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

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

37           (2) Coordinate with the Secretary, the Department of Juvenile Justice and  
38 Delinquency Prevention, and local education agencies within the local  
39 program service area, the provision of services to clients through local  
40 program and State facilities.

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

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

3 **"§ 122C-88A. Appropriation and allocation of funds by administering counties**  
4 **and cities.**

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

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

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

22 **"§ 122C-89. County business plan required; content; process; certification.**

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

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

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

38           b. Provider network development. -- Ensuring available and  
39 qualified providers to deliver services based on the local plan.  
40 Development of new providers and monitoring provider  
41 performance and service outcomes. Provider network  
42 development shall address consumer choice and fair  
43 competition.

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

- 1           i.       Procedures for the informal resolution of disputes prior to filing  
2                   of an appeal with the State Appeals Panel under G.S. 122C-  
3                   100.17, et seq.  
4           j.       Use of local funds for the alteration, improvement, and  
5                   rehabilitation of real property as authorized by and in  
6                   accordance with G.S. 122C-100.11(e).

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

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

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

22       "**§ 122C-89A. Status of local program; status of consolidated human services**  
23       **agency.**

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

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

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

30       "**§ 122C-90. Local program boards.**

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

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

37           (2)   Conduct reviews of local program services with the assistance of the  
38                   Local Ombudsman, assess the quality and availability of services, and  
39                   advise local officials through the Local Ombudsman.

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

41           (4)   With the assistance of the Local Ombudsman, submit to the county  
42                   board of commissioners for the administering county periodic reports  
43                   that assess the quality and availability of services, and progress in

1 implementing local service implementation plans, including service  
2 goals and outcomes.

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

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

5 **"§ 122C-91. Structure of local program board.**

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

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

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

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

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

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

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

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

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

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

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

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

36 a. Mental illness; and

37 b. Developmental disabilities.

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

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

41 a. With mental illness;

42 b. With developmental disabilities; and

43 c. Who abuse substances.

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

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

8 **"§ 122C-92. Organization of local program board.**

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

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

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

14 **"§ 122C-93. Local program board members' training.**

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

17 **"§ 122C-94. Compensation of program board members.**

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

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

25 **"§ 122C-95. Program director.**

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

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

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

35           (3) Administer local program services.

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

37           (5) Advise the board of county commissioners of the administering county  
38 through the county manager.

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

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

42 **"§ 122C-96. Public guardians.**

43       The officers and employees of the Division, or any successor agency, and the  
44 program director or any officer or employee of a local program designated by the local

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

8 **"§ 122C-97. Other agency responsibility.**

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

13 **"§ 122C-98. County reimbursement to State for disallowed expenditures.**

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

19 **"§ 122C-99. Local program funding suspended.**

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

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

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

36 **"§ 122C-100. Local program failure to provide services; State assumption of**  
37 **service delivery.**

38 At any time that the Secretary determines that a local program is not providing  
39 minimally adequate services, in accordance with rules adopted by the Secretary, to  
40 persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so,  
41 the Secretary, after providing written notification of the Secretary's intent to the board of  
42 county commissioners of the administering county and to the local program board, and  
43 providing the local program an opportunity to be heard, may assume control of the  
44 particular service in question or of the local program and appoint an administrator to

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

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

14 **"§ 122C-100.1. Local program caretakers appointed.**

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

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

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

34 "Part 3.

35 "Consolidated Human Services.

36 **"§ 122C-100.2. Consolidated human services board; human services director.**

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



1 powers and duties of the governing unit of a local program as provided by G.S. 122C-  
2 88, except that the consolidated human services board may not:

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

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

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

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

19 "Part 4.

20 "Service Delivery System.

21 "**§ 122C-100.3. Composition of system.**

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

25 "**§ 122C-100.4. Single portal of entry and exit designation for mental health and**  
26 **substance abuse facilities.**

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

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

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

- 2 (1) A specific listing of facilities to be covered by the single portal of  
3 entry and exit plan;  
4 (2) Procedures for review of individuals to be admitted to or discharged  
5 from State and local program facilities;  
6 (3) Procedures for shared responsibility when individuals are admitted  
7 directly to a State facility;  
8 (3a) Procedures for treatment of mentally retarded individuals with mental  
9 illness who are committed to a 24-hour facility;  
10 (4) Evidence of incorporation of these plans within the contracts between  
11 the local program and the State facilities and with other public and  
12 private agencies as required in G.S. 122C-100.6;  
13 (5) Evidence of cooperative arrangements with local law enforcement,  
14 local courts, and the local medical society; and  
15 (6) Procedures for review of citizen complaints.

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

21 **§ 122C-100.5. Single portal of entry and exit designation for public and private**  
22 **services for individuals with developmental disabilities.**

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

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

40 (c) The plan shall include:

- 41 (1) A specific listing of services for individuals with developmental  
42 disabilities to be covered by the single portal of entry and exit plan;  
43 (2) Procedures for review of individuals to be admitted to or discharged  
44 from services for individuals with developmental disabilities;



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

7 **"§ 122C-100.7. Contract for services.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

7 (1) Delay payments; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **"§ 122C-100.17. Personnel.**

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

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

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

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

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

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

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

30 "Part 6.

31 "State Facilities.

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

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

35 (1) For the mentally ill:

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

40 (2) For the mentally retarded:

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

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

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

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

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

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

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

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

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

30 State of North Carolina: \_\_\_\_\_ County.

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

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

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

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

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

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

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

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

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

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

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

20 "Part 7.

21 "Quality Assurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "Article 1A.

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

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

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

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

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

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

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

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

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

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

27        The State Ombudsman shall:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31       (1) To adopt rules regarding the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **"§ 62-289.3. Definitions.**

10 As used in this Article:

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

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

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

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

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

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

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

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

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

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

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

12 ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

- 3 (1) For mental illness treatment:
- 4 a. Licensed psychiatric hospitals;
  - 5 b. Licensed psychiatric beds in licensed general hospitals;
  - 6 c. Licensed residential treatment facilities;
  - 7 d. Area Mental Health, Developmental Disabilities, and Substance
  - 8 Abuse Authorities;
  - 9 e. Licensed intensive outpatient treatment programs; ~~and~~
  - 10 f. Licensed partial hospitalization ~~programs~~ programs; and
  - 11 g. Local programs as defined in G.S. 122C-3."
- 12 (2) For chemical dependency treatment:
- 13 a. Licensed chemical dependency units in licensed psychiatric
  - 14 hospitals;
  - 15 b. Licensed chemical dependency hospitals;
  - 16 c. Licensed chemical dependency treatment facilities;
  - 17 d. Area Mental Health, Developmental Disabilities, and Substance
  - 18 Abuse Authorities;
  - 19 e. Licensed intensive outpatient treatment programs;
  - 20 f. Licensed partial hospitalization programs; ~~and~~
  - 21 g. Medical detoxification facilities or ~~units~~ units; and
  - 22 h. Local programs as defined in G.S. 122C-3."

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

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

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

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

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

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

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

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

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

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

11 (1) For the mentally ill:

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

16 (2) For the mentally retarded:

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

22 (3) For substance abusers:

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

28 (4) As special care facilities:

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

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

### 36 **PART 3. EFFECTIVE DATE**

37

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