

House Bill 713

By: Representatives Dempsey of the 13th, Houston of the 170th, Collins of the 68th, Smyre of the 135th, Hitchens of the 161st, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 37, Article 1 of Chapter 8 of Title 50, and Chapter 16 of Title 50 of the
2 Official Code of Georgia Annotated, relating to mental health, general provisions relative to
3 the Department of Community Affairs, and public property, respectively, so as to provide for
4 multifaceted reform initiatives and supports relating to mental health and homelessness; to
5 revise the criteria for inpatient care; to revise the duration in an emergency receiving facility;
6 to provide for targeted state funding for projects such as safe parking areas, structured
7 camping facilities, and individual unit shelters; to provide for allocation of state funding
8 under certain conditions; to provide for grant-allocation contracts and state grants; to provide
9 for the designation of structured camping facilities on state property; to provide for a
10 prohibition on use of undesignated state property for camping; to provide for definitions; to
11 provide for applicability; to provide for violations and penalty; to provide for related matters;
12 to provide for a short title; to provide for an effective date; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Reducing Street Homelessness Act of
17 2021."

18 **SECTION 2.**

19 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended in
20 Code Section 37-3-1, relating to definitions, by revising paragraphs (9.1) and (12.1) as
21 follows:

22 "(9.1) 'Inpatient' means a person who is mentally ill and:

23 (A)(i) Who presents a substantial risk of ~~imminent~~ harm to that person or others, as
24 manifested by either recent overt acts or recent expressed threats of violence which
25 present a probability of physical injury to that person or other persons; or

26 (ii) Who is so unable to care for that person's own physical health and safety as to
27 create ~~an imminently~~ a reasonable expectation that a life-endangering crisis or
28 significant psychiatric deterioration will occur in the near future; and

29 (B) Who is in need of involuntary inpatient treatment."

30 "(12.1) 'Outpatient' means a person who is mentally ill and:

31 (A) Who is not an inpatient but who, based on the person's treatment history or current
32 mental status, will require outpatient treatment in order to avoid predictably ~~and~~
33 ~~imminently~~ becoming an inpatient;

34 (B) Who because of the person's current mental status, mental history, or nature of the
35 person's mental illness is unable voluntarily to seek or comply with outpatient
36 treatment; and

37 (C) Who is in need of involuntary treatment."

38

SECTION 3.

39 Said title is further amended in Code Section 37-3-43, relating to procedure upon admission
40 to an emergency receiving facility and notice of proposed discharge, by revising subsection
41 (a) as follows:

42 "(a) A patient who is admitted to an emergency receiving facility shall be examined by a
43 physician as soon thereafter as possible but in any event within ~~48~~ 72 hours and may be
44 given such emergency treatment as is indicated by good medical practice. The patient must
45 be discharged within ~~48~~ 72 hours of his or her admission unless:

46 (1) An examining physician or psychologist concludes that there is reason to believe that
47 the patient may be a mentally ill person requiring involuntary treatment and executes a
48 certificate to that effect within such time; or

49 (2) The patient is under criminal charges, notice of which has been given in writing to
50 the facility, in which case the provisions of Code Section 37-3-95 shall apply.

51 Nothing in this chapter shall be construed to prohibit a physician or psychologist who
52 previously executed a certificate authorized by the provisions of this chapter from
53 executing any other certificate provided for in this chapter for the same or any other
54 patient."

55

SECTION 4.

56 Said title is further amended in Code Section 37-3-82, relating to procedure upon failure of
57 or noncompliance with involuntary outpatient treatment plan, by revising subsection (b) as
58 follows:

59 "(b) If at any time during a period of involuntary outpatient treatment, including but not
60 limited to interim outpatient treatment arranged pursuant to subsection (b) of Code Section
61 37-3-91, the patient fails without good cause or refuses to comply with the outpatient
62 service plan, the physician or psychologist in charge of the outpatient service plan or that
63 physician's or psychologist's designee may petition the court originally approving the

64 involuntary treatment of the patient or the court of the county in which the patient is a
65 resident or where the patient may be found for an order authorizing a peace officer to take
66 the patient and immediately deliver the patient to the community mental health center in
67 charge of the patient's outpatient service plan, if a physician or psychologist is available
68 there to examine the patient, or to the nearest emergency receiving facility serving the
69 county in which the patient is found. If in the discretion of the court such an order is
70 issued, the patient shall be delivered to the facility and may be given such emergency or
71 other medical treatment as is indicated by good medical practice. The patient must be
72 released from the custody of the community mental health center within four hours and
73 from the custody of the emergency receiving facility within ~~48~~ 72 hours after being taken
74 into the custody of that center or facility unless the examining physician or psychologist
75 concludes that, because of a change in the patient's condition, the least restrictive
76 alternative which would accomplish the treatment goals is hospitalization of the patient.
77 The physician or a psychologist may then execute a certificate under the conditions
78 specified therefor in subsection (a) of Code Section 37-3-41, if the examination is done in
79 a community mental health center, or under the conditions specified therefor in Code
80 Section 37-3-43, if the examination is done in an emergency receiving facility. ~~That~~ Such
81 certificate shall have the same duration and effect as a certificate issued pursuant to
82 subsection (a) of Code Section 37-3-41 or Code Section 37-3-43, as applicable."

83

SECTION 5.

84 Said title is further amended in Code Section 37-3-91, relating to discharge of persons
85 meeting outpatient care criteria, by revising subsection (a) as follows:

86 "(a) A person who is in the physical custody of a community mental health center,
87 emergency receiving facility, or evaluating facility and who is determined by a physician
88 or a psychologist, at or on behalf of that facility, to meet all of the outpatient treatment
89 requirements of paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90 shall be

90 discharged from that facility as provided in this Code section pending a full and fair
 91 hearing or waiver thereof under Code Section 37-3-92. ~~That~~ Such discharge from a
 92 community mental health center shall occur within four hours after the patient is examined
 93 by a physician or a psychologist at or on behalf of that center. ~~That~~ Such discharge from
 94 an emergency receiving facility shall occur within ~~48~~ 72 hours after the patient's admission
 95 thereto. ~~That~~ Such discharge from an evaluating facility shall occur no later than the
 96 expiration of the five-day evaluation period established under Code Section 37-3-64."

97 **SECTION 6.**

98 Said title is further amended in Code Section 37-7-1, relating to definitions relating to
 99 hospitalization and treatment of alcoholics, drug dependent individuals, and drug abusers,
 100 by revising paragraphs (14.1) and (15.1) as follows:

101 "(14.1) 'Inpatient' means a person who is an alcoholic, a drug dependent individual, or
 102 a drug abuser and:

103 (A)(i) Who presents a substantial risk of ~~imminent~~ harm to that person or others, as
 104 manifested by either recent overt acts or recent expressed threats of violence which
 105 present a probability of physical injury to that person or other persons; or

106 (ii) Who is incapacitated by alcoholic beverages, drugs, or any other substances listed
 107 in paragraph (8) of this Code section on a recurring basis; and

108 (B) Who is in need of involuntary inpatient treatment."

109 "(15.1) 'Outpatient' means a person who is an alcoholic, drug dependent individual, or
 110 drug abuser and:

111 (A) Who is not an inpatient but who, based on the person's treatment history or
 112 recurrent lack of self-control regarding the use of alcoholic beverages, drugs, or any
 113 other substances listed in paragraph (8) of this Code section, will require outpatient
 114 treatment in order to avoid predictably ~~and imminently~~ becoming an inpatient;

- 115 (B) Who because of the person's current mental state and recurrent lack of self-control
116 regarding the use of alcoholic beverages, drugs, or any other substances listed in
117 paragraph (8) of this Code section or nature of the person's alcoholic behavior or drug
118 dependency or drug abuse is unable voluntarily to seek or comply with outpatient
119 treatment; and
- 120 (C) Who is in need of involuntary treatment."

121 **SECTION 7.**

122 Article 1 of Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to
123 general provisions relative to the Department of Community Affairs, is amended by adding
124 a new Code section to read as follows:

125 "50-8-19.

126 (a) As used in this Code section, the term:

127 (1) 'Continuums of care' or 'CoCs' means the local homeless services organizations to
128 which state funds are directed; provided, however, that such term shall not include public
129 housing authorities.

130 (2) 'Nonprofit' means a nonprofit organization exempt from taxation under Section
131 501(c)(3) of the Internal Revenue Code of 1986.

132 (3) 'State funds' means all state and federal funds appropriated to the department relating
133 to grants for providers of shelter and services to the homeless and housing initiatives.

134 (b) On and after January 1, 2022, unless otherwise prohibited by applicable federal
135 requirements, all state funds received by the department for purposes of addressing
136 homelessness that are currently allocated to municipalities, continuums of care, or
137 nonprofits for the construction of short-term housing or sheltering of the homeless shall be
138 redirected by the department for use on the following:

139 (1) Safe parking areas, where each development lot shall provide:

- 140 (A) Access to basic utilities sufficient to service all of the safe parking spots within the
141 development lot;
- 142 (B) Basic utilities, including water and electricity outlets; and
143 (C) Access to bathrooms sufficient to service all of the safe parking spots within the
144 development lot;
- 145 (2) Structured camping facilities, where:
- 146 (A) Such designated areas shall not be subject to building codes; and
147 (B) Individuals without a stable residence shall be allowed to bring camping equipment
148 and personal property onto such designated areas, and shall be assigned a specific
149 location to set up temporary residence; and
- 150 (3) Individual unit shelters, which shall:
- 151 (A) Be suitable to house between one and three individuals;
152 (B) Provide basic sleeping accommodations and access to electricity;
153 (C) Provide access to showers and bathroom facilities sufficient to service all
154 individual unit shelters; and
155 (D) Limit occupation to a period of six months.
- 156 (c)(1) Any CoC operating in an area with a per-capita homelessness level higher than the
157 average state level shall allocate state funds typically used for permanent supportive
158 housing, and not otherwise restricted by federal requirements or court orders, to
159 nonprofits according to the following:
- 160 (A) The CoC shall conduct a survey of homeless individuals living within the area in
161 which the CoC operates, including a survey of local hospitals, jails, and homeless
162 shelters. The survey should be conducted as far as possible in tandem with the annual
163 point-in-time count of homeless individuals, and the information shall be included in
164 the Homeless Management Information System. All sheriffs shall be required to
165 cooperate with such survey. The survey shall account for the following factors among
166 homeless individuals:

- 167 (i) Days unhoused or in shelters in the year prior to the survey date;
168 (ii) Days spent in any state or federal correctional facility in the year prior to the
169 survey date; and
170 (iii) Days hospitalized in the last year prior to the survey date;
171 (B) The CoC shall identify individuals with the highest levels of combined total days
172 as determined pursuant to subparagraph (A) of this paragraph, and then award all state
173 funds to nonprofits willing and competent to assist such individuals. In so far as
174 practicable, the state shall randomly select individuals from the group with highest total
175 days as determined pursuant to subparagraph (A) of this paragraph, and then reward
176 those nonprofits serving such individuals based on a reduction of such days relative to
177 the nonselected group, with the days to be weighted as the department sees fit; and
178 (C) Each nonprofit selected for funding pursuant to subparagraph (B) of this paragraph
179 shall receive a three-year grant-allocation contract.
180 (2) In lieu of the grant-allocation contracts authorized pursuant to paragraph (1) of this
181 subsection, the CoC can select and contract with nonprofits that use at least two of the
182 three factors contained in subparagraph (A) of paragraph (1) of this subsection. Such
183 contracts shall be approved at the discretion of the department.
184 (d) CoCs may use state grants otherwise used for permanent supportive housing for
185 conducting surveys pursuant to subsection (c) of this Code section, but such expenses shall
186 not exceed 10 percent of the total grants.
187 (e)(1) No state funds shall be allocated to any municipality, CoC, or nonprofit for the
188 construction or maintenance of any short-term housing that costs more than \$35,000.00
189 per bed to construct, excluding the price of land.
190 (2) No state funds shall be allocated to any municipality, CoC, or nonprofit for the
191 construction or maintenance of any short-term housing that costs more than \$10,000.00
192 a year to maintain at a basic level of habitability.

193 (3) No state funds shall be allocated to any CoC or nonprofit in municipalities that show
194 an increase in unsheltered homeless of 50 individuals or more for two consecutive years,
195 or that refuses to enforce laws banning street camping or sleeping in public.

196 (f)(1) If a municipality has a higher per-capita level of unsheltered homelessness than the
197 state average, then such municipality shall be required to dedicate at least 25 percent of
198 its Edward Byrne Memorial Justice Assistance Grant funds and 25 percent of all grants
199 it receives pursuant to the Community Programs Unit of the Criminal Justice
200 Coordinating Council to the creation of homeless outreach teams. Such homeless
201 outreach teams shall:

202 (A) Be composed of police officers and social service and mental health professionals;

203 (B) Work to move individuals street camping and sleeping in public or private places
204 not fit for human habitation into homeless services; and

205 (C) Enforce all state laws banning street camping and sleeping in public, and
206 implement policies to move homeless individuals through drug or mental health courts
207 whenever possible.

208 (2) The continuation of state grants to homeless outreach teams shall be contingent on
209 the department certifying that the municipality meets the conditions as set forth in
210 paragraph (1) of this subsection.

211 (3) Any municipality with a per-capita level of homelessness higher than the state
212 average that refuses to enforce laws banning street camping or sleeping in public shall
213 receive no further state grants pursuant to this Code section until the per-capita level of
214 unsheltered homelessness is at or below the state average or the municipality enforces
215 laws banning street camping and sleeping in public."

216

SECTION 8.

217 Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to public property,
218 is amended by adding a new article to read as follows:

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"ARTICLE 8220 50-16-190.221 As used in this Code section, the term:

222 (1) 'Camping' means temporary habitation outdoors as evidenced by one or more of the
223 following actions: the erection or use of tents or other shelters; the laying down of
224 sleeping bags, blankets, or other materials used for bedding; the placing or storing of
225 personal belongings; the making of a fire; or the act of cooking.

226 (2) 'Commission' means the State Properties Commission.

227 (3) 'State property' means any building, land, or other real property owned, leased, or
228 occupied by any department, commission, board, or other entity of the state; provided,
229 however, that such term shall not include any portion of road or right-of-way on the state
230 highway system.

231 (4) 'Structured camping facilities' means state property designated by the commission
232 pursuant to Code Section 50-16-192 for use by homeless individuals for camping.

233 50-16-191.

234 (a) It shall be unlawful for any person to knowingly use any portion of state property for
235 camping or setting up long-term homeless shelters except in structured camping facilities.

236 (b) Nothing in this Code section shall prohibit the normal, customary, and temporary use
237 of recreational camping areas, safety rest areas, welcome centers, tourist centers, and other
238 property of the state specifically designated for purposes of resting, sleeping, eating, or
239 other similar activities for recreational purposes or by persons traveling by vehicle.

240 (c) This Code section shall not apply to state or local government officials or employees
241 acting in their official capacity and while performing activities as part of their official
242 duties and shall not apply to any employee of a contractor or subcontractor performing
243 duties under a contract with the state.

244 (d) Any person convicted of violating this Code section shall be guilty of a misdemeanor;
245 provided, however, that upon the first violation, the person shall be given a citation and a
246 referral to treatment services.

247 50-16-192.

248 (a) The commission, in coordination with the Department of Community Affairs, shall
249 designate areas of state property for the creation of structured camping facilities to house
250 homeless individuals, including such individuals removed from state property.

251 (b) Structured camping facilities shall not be subject to state building codes.

252 (c) Individuals without a stable residence shall be allowed to bring camping equipment and
253 personal property onto a structured camping facility, and shall be assigned a specific
254 location to set up temporary residence within such structured camping facility.

255 (d) Residence in a structured camping facility shall be conditioned on the completion of
256 service obligations. Failure to comply with any service obligations may result in the
257 immediate removal from a structured camping facility."

258 **SECTION 9.**

259 This Act shall become effective on January 1, 2022.

260 **SECTION 10.**

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