

SENATE BILL 2098

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 2; Title 4; Title 8; Title 12; Title 13; Title 33; Title 34; Title 37; Title 40; Title 41; Title 45; Title 49; Title 52; Title 55; Title 56; Title 63; Title 67; Title 68; Title 71 and Chapter 1100 of the Public Acts of 2010, relative to the Tennessee Disability and Aging Act of 2024.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Tennessee Disability and Aging Act of 2024."

SECTION 2. Tennessee Code Annotated is amended by adding the following as a new title:

**Title 52 – Department of Disability and Aging**

**Chapter 1 – General Provisions**

**52-1-101. Title definitions.**

As used in this title, unless the context otherwise requires:

- (1) "Available suitable accommodations" or "suitable available accommodations" means a state-owned or -operated treatment resource that has the capacity, as reasonably determined by the commissioner, and the medical capability, equipment, and staffing to provide an appropriate level of care, treatment, and physical security to an individual in an unoccupied and unassigned bed;
- (2) "Child" means a person who is under eighteen (18) years of age;
- (3) "Commissioner" means the commissioner of disability and aging;
- (4) "Department" means the department of disability and aging;

(5) "Developmental disability":

(A) In a person over five (5) years of age, means a severe, chronic disability of an individual that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Manifested before twenty-two (22) years of age;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three (3)

or more of the following major life activities:

(a) Self-care;

(b) Receptive and expressive language;

(c) Learning;

(d) Mobility;

(e) Self-direction;

(f) Capacity for independent living; or

(g) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special interdisciplinary or generic services, supports, or other assistance that is likely to continue indefinitely and needs to be individually planned and coordinated; and

(B) In a person up to five (5) years of age, means a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a developmental disability as defined in subdivision (5)(A) if services and supports are not provided;

(6) "Facility" means a treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, community mental health center, counseling center, clinic, group home, halfway house, or any other entity that provides an intellectual or developmental disability service;

(7) "Indigent person" means a person:

(A) Who is supported and whose resources, including property, assets, and income, are insufficient, under chapter 2, part 9 of this title, to pay for the cost of providing services and supports; and

(B) Who does not have a responsible relative or other legally responsible person who is able to pay for the cost of providing the services and supports;

(8) "Intellectual disability" means, for the purposes of the general functions of the department as set forth in § 4-3-2701(b), substantial limitations in functioning:

(A) As shown by significantly sub-average intellectual functioning that exists concurrently with related limitations in two (2) or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work; and

(B) That are manifested before eighteen (18) years of age;

(9) "Licensed physician" means a graduate of an accredited medical school authorized to confer upon graduates the degree of doctor of medicine (M.D.) and who is duly licensed in this state, or an osteopathic physician who is a graduate of a recognized osteopathic college authorized to confer the degree of

doctor of osteopathy (D.O.) and who is licensed to practice osteopathic medicine in this state;

(10) "Medical capability" means that a state-owned or -operated hospital or treatment resource has the ability to treat an individual's medical needs onsite or that the individual's medical needs do not exceed the onsite capability of the state-owned or -operated hospital or treatment resource to treat;

(11) "Mental illness" means a psychiatric disorder, alcohol dependence, or drug dependence, but does not include an intellectual disability or other developmental disability;

(12) "Older person" or "older adult" means an individual who is sixty (60) years of age or older;

(13) "Person supported" means a person who is:

(A) Receiving service, has applied for services, or for whom someone has applied for or proposed services because the person has an intellectual or developmental disability;

(B) Receiving service, has applied for services, or for whom someone has applied for or proposed services because the person is an older person or otherwise eligible for the state-funded long-term care home and community services program authorized by § 71-5-1416 or public guardianship program for the elderly authorized by § 34-7-103; or

(C) Receiving early intervention services, has applied for early intervention services, or for whom someone has applied for or proposed early intervention services;

(14) "Qualified mental health professional" means a person who is licensed in this state, if required for the profession, and who is a psychiatrist;

physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner or senior psychological examiner; licensed master's social worker with two (2) years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a psychiatric nurse; professional counselor; or, if the person is providing service to persons supported who are children, any of the above educational credentials plus mental health experience with children;

(15) "Responsible relative" means the parent of an unemancipated child with an intellectual or developmental disability who is receiving service in programs of the department or any relative who accepts financial responsibility for the care and service of a person supported;

(16) "Support" means any activity or resource that enables a person supported to participate in a service for an intellectual or developmental disability or in community life; and

(17) "Treatment resource" means any public or private facility, service, or program providing treatment or rehabilitation services for persons supported.

**52-1-102. Policy; values; service principles.**

(a) It is the policy of the state to plan on the basis of and to promote the use of private and public service providers, without regard for funding source, to achieve outcomes and accomplishments that create opportunities for persons supported and potential persons supported to have the greatest possible control of their lives in the least restrictive environment that is appropriate for each person. The department shall plan for and promote the availability of a comprehensive array of high-quality prevention, early intervention, treatment, and habilitation services and supports based on the needs

and choices of persons supported and families served. The department shall include persons supported and, where appropriate, family members of persons supported in planning, developing, and monitoring the service systems.

(b) Values upon which the law is predicated include, but are not limited to, individual rights, promotion of self-determination, respect, optimal health and safety, person supported inclusion in the community, and person supported life and service in typical community settings.

(c) The following service principles are fundamental to carrying out the department's responsibilities:

(1) Stable service systems that provide flexibility, advocacy, effective communication, targeted outcomes, continuous evaluation, and improvement based on best practices and research;

(2) Early identification of needs and the inclusion of both prevention and early intervention services and supports;

(3) Timely response to the needs, rights, and desires of those served;

(4) Treating persons supported and their families with dignity and respect;

(5) Protection of persons supported from abuse, neglect, and exploitation;

(6) Accurate and responsible accountability for the use of public resources;

(7) Ongoing education and skills development of the workforce; and

(8) Cultural competence of persons providing service.

**52-1-103. Entitlement to services; funding.**

(a) This title does not create entitlement to services and supports from the state, except to the extent that services and supports are necessarily attached to deprivation of liberty by placement in facilities operated by the department. Implementation of any service or support at state expense under this title is subject to the availability of funds appropriated for that purpose in the general appropriations act.

(b) While the department is charged with the planning and development of services for persons supported, such services are subject to the availability of funding and approval of any waiver amendments that are required to effectuate such new programs at such time that they are developed. The assignment of responsibility for services to the department does not create an entitlement to services for persons with a disability or who are older persons. Nor does it expand or affect in any way the population of persons who are currently eligible for programs and services currently available to persons with a disability or who are older persons

**52-1-104. Department powers and duties.**

(a) The department shall:

(1) Serve as the state's intellectual and developmental disability authority and be responsible for system planning, setting policy and quality standards, system monitoring and evaluation, disseminating public information, and advocacy for persons of all ages who have an intellectual or developmental disability; and

(2) Be designated as the sole state agency to plan and administer all state activities related to and authorized under the Older Americans Act (42 U.S.C. § 3001 et seq.), with the exception of Title V activities under the Older Americans Act (42 U.S.C. §§ 3056–3056p), which are administered by the department of labor and workforce development;

(b) The department may:

(1) Enter into contractual agreements in furtherance of its functions;

(2) Accept grants and gifts of funds and other property of whatever kind from any source, administer the same according to the terms of the grants or gifts, and enter cooperative programs with private and public instrumentalities, including the federal government, to improve services and supports in this state for persons with disabilities and older persons;

(3) Enter into contracts with other states, political subdivisions, or corporations chartered in this state or other states for the purpose of providing preventive and treatment services and supports for persons supported by establishing or supporting various facilities in cooperation with the political or corporate bodies;

(4) Establish or review pilot projects relating to intellectual or developmental disabilities, including, but not limited to, projects to provide, develop, or plan service and support for its persons supported or their families through direct administration or through contracting with service providers. Pilot projects are subject to other state and federal laws;

(5) Allocate state funds for projects and programs for persons with disabilities and older persons, subject to the limits of the appropriation by the general assembly, and funds available or received from the federal government for such projects and programs. The department is authorized to accept funds from the federal government and private sources and to administer such funds to achieve its purposes under this title;

(6) Make grants to and contracts with, under terms and conditions that the commissioner prescribes, any county, city, state or local government,



educational institution, profit or nonprofit corporation, or any combination thereof for the construction, maintenance, or operation of facilities, programs, or an array of high-quality prevention, early intervention, treatment, and habilitation services and supports for persons supported and their families;

(7) Enter into cooperative programs for the construction, maintenance, or operation of facilities, programs, or services to provide care, habilitation, and treatment for persons supported;

(8) Promulgate and enforce rules that are necessary for the efficient financial management and lawful operation of the facilities, programs, and services;

(9) Construct, maintain, and operate the facilities, programs, or services;

(10) Conduct evaluations and prepare reports in accordance with the terms of the Older Americans Act and other state and federal laws;

(11) Independently, or in coordination with other agencies, conduct research and develop and implement demonstration projects and programs that provide training, education, and services to advance the interests of persons with disabilities and older persons;

(12) Independently, or in coordination with other agencies, conduct research and develop and implement demonstration projects and programs designed to promote and encourage healthy aging;

(13) Stimulate more effective use of existing resources and services for persons with disabilities and older persons and develop programs, opportunities, and services that are not otherwise provided for those persons, with the aim of developing a comprehensive and coordinated system for the delivery of health and social services;

(14) Establish a structured information system to gather all data necessary to carry out its duties with respect to planning, needs assessment, standard setting, evaluation, and promotion of the development of services and supports for the person supported population, including persons who may become a person supported. The department shall design the system to avoid duplication of information gathering by other public agencies and to minimize acquisition of personally identifiable person supported information. All public and private providers who serve persons with an intellectual or developmental disability, regardless of whether the provider is licensed under this title or other titles of this code or is unlicensed, shall provide the information required for the information system in a way consistent with this title and other state and federal laws; and

(15) Assume temporary operating responsibility of a service provider agency to assure continuity of care and the health and safety of persons supported, if the department determines that an emergency substantially impairs the service provider agency's capacity to provide service to its persons supported and jeopardizes the health or safety of its persons supported.

**52-1-105. Commissioner powers and duties.**

(a) The commissioner shall:

(1) Based on best practices and research, assess the needs of persons supported and potential persons supported throughout the state, plan for a system to meet the needs, set standards for services and supports for persons supported, promote the development of services and supports for persons supported in a community-based, family-oriented system, perform the department's duties, and achieve the department's goals;

(2) Collaborate with all relevant state agencies to coordinate the administration of state programs and policies that directly affect persons supported with respect to treatment, habilitation, and education;

(3) Advise the governor; general assembly; state, local, and private agencies; and the public in matters affecting persons supported and advocates meeting their needs;

(4) Be available or appoint a designee to serve on state-level committees or bodies where the purpose of that state body or committee is concerned with the general health, education, or welfare of the citizens of this state, when persons with disabilities or older persons are affected by the decisions of that body; and

(5) Serve as an advocate within government and in the community for older persons and persons with disabilities in this state.

(b) The commissioner may:

(1) Select and recommend to the appropriate state officials the employment of all central and regional office personnel, and all professional, technical, and other personnel required for the operation of the department;

(2) Recommend to the appropriate state officials the salaries and compensation of all officers and employees of the department;

(3) Adopt rules and policies for the governance, management, and supervision of the department's facilities; prescribe the powers and duties of officers and employees; and provide for admission, discharge, treatment, habilitation, and support of persons with an intellectual or developmental disability and older persons;

(4) Publish a report on the operation of the department and the facilities and programs under its supervision; furnish the report to the governor and members of the general assembly; and upon approval of the governor, further distribute copies of the report as considered proper by the commissioner;

(5) Publish compilations of this title and other relevant statutes to improve public knowledge of the laws by compiling them separately for services to children and adults with an intellectual or developmental disability and older persons and make the compilations available in print and on the internet;

(6) Prescribe and distribute the forms to be used in connection with the admission, hospitalization, or release of persons supported in the department's facilities;

(7) Alter the department's facilities and grounds and name them;

(8) Order the transfer of persons supported between state facilities;

(9) Procure insurance to indemnify full-time or part-time physicians, licensed psychologists designated as health service providers, and non-physician chief officers of all facilities of the department against actions by persons supported and others that are alleged to arise out of acts of omission or commission of those personnel;

(10) Delegate responsibilities as the commissioner deems necessary for the effective conduct of the functions of the department;

(11) Assume general responsibility for the proper and efficient operation of the department and its facilities, services, and supports;

(12) Promulgate rules necessary to fulfill the department's responsibilities and carry out this title;

(13) Prescribe the form of applications, records, reports, and certificates provided for in this title and the information the forms must contain; and

(14) Investigate complaints by a person supported or by another person on behalf of a person supported.

**52-1-106. Interagency agreements.**

(a) The commissioner may develop and enter into interagency agreements on services and supports for individuals with an intellectual or developmental disability to:

(1) Assure accountability for services and supports across all agencies providing services and supports for a person or family whose service is covered by this title;

(2) Clarify responsibilities for the department's service system;

(3) Promote problem resolution at the local levels;

(4) Promote interagency service needs assessment and planning;

(5) Provide a vehicle for interagency policy development without interfering with agency independence;

(6) Promote creation and maintenance of coordinated service systems for persons supported and their families;

(7) Provide for interrelated service planning across agency lines;

(8) Promote inclusion of intellectual and developmental disability issues in crisis and disaster planning; and

(9) Enhance the efficiency and effectiveness of expenditure of public funds.

(b) All state agencies shall cooperate with the department in the development of agreements under this section.

(c) An agreement entered into under this section must include the intersection of services and supports among all state agencies that have any responsibility for mental health, developmental disabilities, alcohol dependence, drug dependence, education, health, social services, housing, transportation, employment, justice, habilitation, rehabilitation, correction, or public funding of services and supports; transition between services to different age groups; information sharing, including records, data, and service; and interagency training.

(d) An agreement entered into under this section must include the goals and expected outcomes against which progress will be measured; eligible populations; role responsibilities; covered services and supports; procedures for coordination, including local level implementation procedures; joint monitoring; data sharing; and how conflict resolution is achieved.

(e) The commissioner may develop and enter into similar interagency agreements with local government agencies.

**52-1-107. Adoption of rules.**

(a) In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the commissioner shall promulgate, amend, revise, and rescind rules as are necessary and appropriate to carry out this title.

(b) Notwithstanding § 71-5-1419(c), the commissioner shall promulgate rules to equitably allocate resources between urban and rural areas to program components that provide services to adults with disabilities and older persons in need of assistance who do not qualify for long-term care services under the Medical Assistance Act of 1968, compiled in title 71, chapter 5, part 1.

**Chapter 2 – Services for Individuals with Intellectual or  
Developmental Disabilities and Facilities**

**Part 1 – Community Service System**

**52-2-101. Community-based system; services and supports.**

The department shall plan, coordinate, administer, monitor, and evaluate state and federally funded services and supports as a community-based system within the total system of services and supports for persons with an intellectual or developmental disability, or at risk for those conditions, and for their families. All functions must be carried out in consultation and collaboration with current or former persons supported, and, as appropriate, their families, guardians or conservators, person supported advocates, service providers, agencies, and other affected persons and organizations.

**52-2-102. Goals, purposes, and findings.**

(a) Within the limits of available resources, it is the goal of the state to develop and maintain a system of care that provides a comprehensive array of quality prevention, early intervention, treatment, habilitation, and rehabilitation services and supports that are geographically available, and equitably and efficiently allocated statewide, allowing people to be in their own communities in settings based on the needs and choices of individuals and families served.

(b) The state's purposes are to:

(1) Establish and sustain a broad range and scope of flexible services and supports across the domains of residential living, working, learning, community participation, and family support, including crisis, respite, and other emergency services that help persons supported maintain respected and active positions in the community; and

(2) Promote the early identification of children with an intellectual disability, developmental disability, or developmental delay to assure that they receive services and supports appropriate to their developmental level and changing needs.

(c) The general assembly finds as facts that the needs of persons with an intellectual or developmental disability cannot be met by the department in isolation and that those persons need to receive services and supports that are integrated, have linkages between and among other human service agencies and programs, and have mechanisms for planning, developing, coordinating, and monitoring services and supports to meet their needs.

**52-2-103. System requirements.**

The state shall accomplish its purposes through community-based systems that provide:

- (1) Access to services and supports that are individualized to the capacities, needs, and values of each person;
- (2) Accountability of services and supports through statewide standards for monitoring, reporting, and evaluating information;
- (3) At least basic quality standards for service delivery;
- (4) Priorities for the use of available resources;
- (5) Coordination of services and supports within the department, among other state agencies, and other public and private service providers aimed at reducing duplication in service delivery and promoting complementary services and supports among all relevant entities;
- (6) Conflict resolution procedures; and
- (7) Involvement of persons supported, and, where appropriate, their conservator, families, and advocates.

**52-2-104. Service system; core values.**

The core values of the service system are:



(1) The system of care is person-centered and family-focused, with the needs and choices of the individual and family, as appropriate, determining the types and mix of services and supports provided, because, to make good decisions, persons supported and their families need complete information about the availability, alternatives, and costs of services and supports, how the decision-making process works, and how to participate in that process;

(2) The system of care provides individualized services and supports based on an individualized service plan that is comprehensive, coordinated, and developmentally appropriate; provides smooth transition through life stages; involves families and advocates, as appropriate; and is developed by qualified professionals in consultation with persons supported, family members, and advocates, as appropriate;

(3) The system of care is community-based and provides for service in the least restrictive, most appropriate setting;

(4) The system of care is culturally competent with agencies, programs, services, and supports that are responsive to the cultural, racial, and ethnic differences of the populations they serve;

(5) The system of care gives consideration to the safety and health of persons supported, while respecting their choices and protecting their rights, including their right to be free from abuse, neglect, and exploitation; and

(6) The system of care is continuously improved based on research and best practices.

**52-2-105. Planning and resource allocation areas; information and referrals.**

The department shall establish areas for planning and resource allocation. The department shall define geographically dispersed and accessible points of access to

service systems and designate providers or mechanisms to provide information and referral for services and supports and for eligibility decisions.

**52-2-106. Services and support requirements; geographic availability; reports.**

(a) It is the intent of the general assembly that the system of care developed pursuant to this part provides a comprehensive array of services and supports that are geographically available, are equitably and efficiently allocated statewide and in each grand division of the state, and allow people to be in their own community settings, based on the needs and choices of individuals and families served. Services and supports provided to persons generally and as part of the medical assistance program, pursuant to title 71, chapter 5, shall seek to alleviate geographic service and support disparities across this state and its grand divisions. In striving to alleviate the geographic disparities, the state should seek to allocate budget improvements and other new resources in a manner that promotes equitable distribution of services and supports among the grand divisions of this state.

(b) In order to implement subsection (a), the state shall strive to avoid gaps in services and endeavor to achieve a delivery system that ensures that services are available to persons supported on a substantially equitable basis, regardless of place of residence within this state. To that end, the commissioner of finance and administration shall report to the health and welfare committee of the senate and the health committee of the house of representatives, no later than January 15, 2008, and annually by each January 15 thereafter, on the following indicators of equity in the service delivery system:

- (1) The extent to which special services and programs are available on a substantially equitable basis throughout this state;
- (2) The extent to which services of the same level, intensity, and duration are available on a substantially equitable basis throughout this state; and

(3) The extent to which rates of service utilization by persons supported are substantially equitable throughout this state.

## **Part 2 – Service System Assessment and Planning**

### **52-2-201. Developmental disabilities planning and policy council and regional citizen-based planning and policy councils; establishment; duties.**

(a) The department shall establish a state developmental disabilities planning and policy council and a regional citizen-based planning and policy council, each composed of persons supported, family members of persons supported, advocates for persons supported, and other affected persons and organizations for the department's service areas. For purposes of this section, "persons supported" has the same meaning as in § 52-1-101(13)(A).

(b) The councils described in subsection (a) shall:

(1) Advise the statewide planning and policy council on the desirable array of prevention, early intervention, treatment, and habilitation services and supports for persons supported and their families, and such other matters as the commissioner or the statewide planning and policy council may request; and

(2) Provide information and advice to the department on policy, formulation of budget requests, and development and evaluation of services and supports.

### **52-2-202. Councils; membership.**

(a) The councils are to provide citizen participation in policy planning and shall be representative of persons supported and their families; advocates for supported children, adults, and the elderly; service providers; agencies; and other affected persons and organizations. At least a majority of each council's membership shall consist of current or former persons supported and members of their families.

(b) Notwithstanding subsection (a), the regional citizen-based planning and policy councils established by the department shall strive to ensure that at least a majority of each council's membership consists of current or former persons supported and family members of persons supported.

### **Part 3 – Setting Service Standards**

#### **52-2-301. Basic quality standards.**

(a) The department shall set basic quality standards for services and supports to all persons served on the basis of an intellectual or developmental disability, regardless of whether they are served by the department, the department's contractors, private service providers, other state or local public agencies, agencies licensed by the department, or private service providers that are not licensed under this title and regardless of whether the persons supported are in the custody of state or local government.

(b) Basic quality standards must be the same for all persons supported regardless of where they are served and by whom they are served. Basic quality standards may vary according to the ages of the persons supported to assure appropriate service for children, adults, and the elderly.

#### **52-2-302. Standards compliance regulation.**

The department shall regulate compliance with basic quality standards to the extent otherwise authorized by this title. The department may monitor compliance with basic quality standards in all settings, including those over which it does not have regulatory authority. The department may accomplish monitoring by inspections conducted by other state agencies as part of their regular duties.

#### **52-2-303. Contracts for higher performance.**

The department may contract for higher performance standards than the basic quality standards or licensure standards.

**Part 4 – Disability Services and Personal Support Services Licensure Law**

**52-2-401. Short title.**

This part is known and may be cited as the "Disability Services and Personal Support Services Licensure Law."

**52-2-402. Part definitions.**

As used in this part, unless the context otherwise requires:

(1) "Abuse" means the knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;

(2) "Consumer direction" means a model of service delivery for certain medicaid home and community-based services in which the person receiving the services, family member, or other representative employs and supervises the individual who provides the services;

(3) "Facility" means a treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, community mental health center, counseling center, clinic, group home, halfway house, or any other entity that provides an intellectual or developmental disability service;

(4) "Licensee" means a person, proprietorship, partnership, association, governmental agency, or corporation, which operates a facility or a service and has obtained a license under this part;

(5) "Misappropriation of property" means the deliberate misplacement; exploitation; or wrongful, temporary, or permanent use of belongings or money of another person without consent;

(6) "Neglect" means failure to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness, which results in injury or probable risk of serious harm;

(7) "Personal support services" means nursing consultation, education services, and other personal assistance services as defined by rule, which are provided to individuals with substantial limitation in two (2) or more major life activities in either their regular or temporary residences, but does not mean direct nursing services provided in connection with an acute episode of illness or injury;

(8) "Reputable and responsible character" means that the applicant or licensee can be trusted with responsibility for persons who are particularly vulnerable to abuse, neglect, and financial or sexual exploitation; and

(9) "Service" includes any activity to prevent, treat, or ameliorate an intellectual or developmental disability, which includes diagnosis, evaluation, residential assistance, training, habilitation, rehabilitation, prevention, treatment, counseling, case coordination, or supervision of persons with an intellectual or developmental disability.

**52-2-403. Licensure for certain services and facilities; exemptions, exclusions, and waivers; review panel; rulemaking.**

(a) The department may license services and facilities operated for the provision of disability services and for personal support services. Subject to subsection (c), services and facilities operated for persons with an intellectual or developmental disability and personal support services for persons with an intellectual or developmental disability must be licensed by the department. A personal support services agency licensed by the department may also serve individuals with physical or other disabilities. Notwithstanding any references in this part to the licensing of "facilities" or "services,"

only persons, proprietorships, partnerships, associations, governmental agencies, or corporations may be listed on license applications or licenses as the licensed entity.

(b) The following are exempt from licensing under this part:

(1) Private practitioners who are authorized to practice by the boards of healing arts pursuant to title 63 and only in private practice in that capacity;

(2) A person providing personal care solely to one (1) person with an intellectual or developmental disability, or other person supported receiving personal support services and not in a business arrangement with any other person supported. This exception in this subdivision (b)(2) does not apply to an individual who holds out to the public as being in the business of personal support services for compensation;

(3) An individual providing service or support only to members of the person's own family or relatives;

(4) An individual providing service or support that is not subject to licensing under any other title of this code and doing so only on a part-time basis as defined in department rules;

(5) Foster homes that accept placements only from agencies of state government or licensed child-placing agencies;

(6) Services or facilities providing employee assistance programs;

(7) Services or facilities providing only employment placement;

(8) Facilities that are appropriately licensed by the health facilities

commission as a:

(A) Hospital whose primary purpose is not the provision of mental health or developmental disabilities services; or

(B) Satellite hospital, as defined by rules of the health facilities commission, whose primary purpose is the provision of mental health or developmental disabilities services, and that the department verifies to the health facilities commission as satisfying standards under this chapter;

(9) Facilities that are operated by state, county, or municipal departments of education; the department of correction; the department of human services; or the department of children's services, and that affirmatively state that the primary purpose of the facility is other than the provision of intellectual or developmental disability services; and

(10) A person providing direct care services to no more than three (3) people receiving services through consumer direction in a medicaid home- and community-based services program. This subdivision (b)(10) does not apply to an individual who holds out to the public as being in the business of providing personal support services for compensation.

(c)

(1) A service or facility that can demonstrate compliance with rules and standards by a current personal support services license from another state agency is considered in compliance with rules and standards under this part so that duplicate licensing is not necessary. Personal support services agencies that provide services for the aged or persons with a mental illness and persons with an intellectual or developmental disability are not required to obtain a license from both the department of mental health and substance abuse services and the department of disability and aging. The departments shall work together to ensure that licensure standards for personal support services agencies are



appropriate across all the populations that may be served and are consistently applied.

(2) The licensing entity is determined based on the larger population served by the agency as of April 10, 2015, or, in the case of new applicants for licensure, the larger population anticipated to be served by the agency at the time of licensure application.

(d)

(1) The department shall appoint a review panel to review periodically all exclusions and waivers granted under the licensure law and perform other duties under this part. The department's legal counsel shall advise the panel.

(2) The panel's membership consists of:

(A) The commissioner or the commissioner's designee;

(B) A representative of licensed intellectual disability community services and a representative of licensed developmental disability community services;

(C) A representative of a licensed residential facility for persons with disability and aging services;

(D) Five (5) representatives of persons supported; and

(E) A representative of a personal support services agency.

(3) The panel shall elect a chair and vice chair and shall report any findings directly to the commissioner.

(4) The vote of a majority binds the panel.

(5) Travel expenses for panel members must be reimbursed. All reimbursement for travel expenses must be in conformity with the comprehensive

state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

**52-2-404. Licensure rules.**

(a) The department shall adopt rules for licensure of services and facilities regarding adequacy of services, qualifications of professional staff, and facility conditions. The department shall require for licensure satisfaction of basic quality standards set under part 3 of this chapter, as applicable, and may require higher standards. The rules must include consideration of the adequacy of environment, life safety, treatment or habilitation services, education and training requirements of the staff, and other considerations that the department deems necessary to determine the adequacy of the provision of intellectual and developmental disability services. The department may adopt rules for the administration of the licensure program.

(b) Notwithstanding any law to the contrary, the department has the authority to amend its rules for licensure as needed to be consistent with the federal home-based and community-based settings final rule, published in the Federal Register at 79 FR 2947 (January 16, 2014), as amended or revised, including the authority to differentiate licensure requirements for any entity contracted to provide medicaid-reimbursed home- and community-based services in order to allow the facility or entity to comply with the federal rule and continue to receive medicaid reimbursement for home- and community-based services. Rules adopted by the department under this subsection (b) must be developed with input from stakeholders and promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, however, that the department shall not promulgate emergency rules under this subsection (b) as defined in § 4-5-208. Licensure survey and enforcement must be conducted in a manner consistent with any rule issued under this subsection (b).

**52-2-405. Unlicensed facility operation; penalty.**

(a) It is unlawful for a person, partnership, association, or corporation to own or operate a service or facility that provides intellectual or developmental disability services or personal support services within the meaning of this title without having obtained a license as required by this part.

(b) A violation of this requirement is a Class B misdemeanor.

(c) Each day of operation without a license constitutes a separate offense.

**52-2-406. Licensure; application; issuance.**

(a) A person, proprietorship, partnership, association, corporation, or any state, county, or local governmental unit or any division, department, board, or agency of government shall obtain a license from the department in order to lawfully establish, conduct, operate, or maintain a service or facility that provides intellectual or developmental disability services or personal support services.

(b) The applicant shall submit an application on the department's form showing that the applicant is of reputable and responsible character and able to comply with the minimum standards for a service or facility providing intellectual or developmental disability services or personal support services. The application must also show the applicant is able to comply with the department's rules adopted under this part. The application must contain the following additional information:

- (1) The name of the applicant;
- (2) The type of facility or service;
- (3) The location;
- (4) The name of the person or persons to be in charge; and
- (5) Any other information as the department may require.

(c) The department may approve the issuance of a license upon the application without further evidence, or, in its discretion, it may conduct its own investigation.

(d)

(1) Proof that a person or business has a personal or business history in any jurisdiction of the operation of substandard services or facilities or a felony conviction creates a presumption that the applicant or licensee does not have a reputable and responsible character.

(2) An applicant denied a license on the basis of the presumption may request a hearing for the purpose of rebutting the presumption created by this subsection (d), in accordance with subsection (f).

(e) A license must not be issued or renewed if the applicant, or any chief executive officer or director of the applicant, does not have a reputable and responsible character.

(f) If the department determines that a license should not be granted, it shall notify the applicant. Within fifteen (15) days of notification of denial, the applicant may file a written request for review by the panel appointed under § 52-2-403(d). The review must be at the earliest possible date, and recommendations must be reported to the commissioner. The commissioner shall determine whether the original license denial shall remain effective and shall notify the applicant. Within fifteen (15) days of notification, the applicant may file a written request for a hearing before the department. The hearing must be conducted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) If the department determines that the applicant complies with and will in the future comply with this part and rules adopted under this title and has a reputable and responsible character, the department shall issue a license.

(h) A license is valid for up to one (1) year from the date of issuance. A license may be issued only for the premises or services named in the application, must be posted in a conspicuous place at the service or facility, and may be renewed from year to year. A license is not assignable or transferable, except as permitted by § 52-2-418(b)(3). The department may charge a reasonable fee for processing the application and issuance of licenses.

**52-2-407. License suspension or revocation.**

(a) The department may suspend or revoke a license on the following grounds:

- (1) A violation of this title or rules adopted under this title;
- (2) Permitting, aiding, or abetting the commission of any illegal act during a licensed service or in a facility;
- (3) Conduct or practice found by the department to be detrimental to the welfare of the persons supported of a licensed service or facility; or
- (4) Abuse, misappropriation of property, or neglect.

(b) The department may impose a civil penalty on a licensee for a violation of this title or a department rule. Each day of a violation constitutes a separate violation. The department shall establish by rule a schedule designating the minimum and maximum civil penalties within the ranges set in § 52-2-409 that may be assessed under this part for violation of each statute and rule that is subject to violation. The department may exclude a statute or rule from the schedule if it determines that a civil penalty for violation of that statute or rule would not achieve the purposes of licensure. If the department has not adopted a rule designating the minimum and maximum civil penalty that may be assessed for violation of a statute or rule, then the maximum civil penalty that may be imposed for violation of that statute or rule must be the lowest figure set under the appropriate subsection of § 52-2-409 that applies to the violation.

(c)

(1) The procedure governing the suspension or revocation of a license or imposition of a civil penalty must be as prescribed in this subsection (c).

(2) If the department determines that a license must be suspended or revoked, or a civil penalty imposed, or both, it shall so notify the licensee stating facts constituting a ground or grounds for the proposed action. Within fifteen (15) days of notification, the licensee may file a written request for review by the panel appointed under § 52-2-403(d). The review must be at the earliest possible date, and the panel shall report its recommendations to the commissioner. The commissioner shall determine whether the original action shall remain effective and shall notify the licensee. Within fifteen (15) days of notification, the licensee may file a written request for a hearing before the department. The hearing must be conducted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(3) The department may determine after the hearing that the license be suspended or revoked, that a civil penalty be imposed, or that no action be taken.

(4) If the department determines that a license must be suspended, the department may also set the conditions to be met by the licensee during the period of suspension to entitle the licensee to resume operation of the service or facility.

(5) If the department determines that a license must be suspended or revoked, or a civil penalty should be imposed, or both, the department shall enter an order stating the grounds for the action.

(6) The department may, after a hearing, hold a case under consideration and specify requirements to be met by a licensee to avoid suspension, revocation, or civil penalty. In those cases, the department shall enter an order accordingly and notify the licensee by certified mail. If the licensee complies with the order and proves that fact to the satisfaction of the department, then the department shall enter an order showing satisfactory compliance and dismiss the case because of compliance.

(d) If a civil penalty lawfully imposed under this part is not paid, then the penalty is recoverable in the name of the state, either by the attorney general and reporter or by the legal counsel for the department, in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation occurred.

**52-2-408. Sanctions; proceedings.**

(a) All proceedings by the department to impose sanctions against licensed entities under this title must be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The proceedings must include notice and opportunity for a hearing before an administrative law judge who shall issue an initial order.

(b) Sanctions shall include any action by the department, based upon alleged deficient practices of the licensed entity, to impose financial or contractual penalties, including the following:

(1) Financial penalties shall include fines, liquidated damages, or denial, withholding, or delay of a payment;

(2) Imposition of moratoria on admissions when the limitations are unrelated to state budget considerations; or

(3) Actions against the entity based upon allegations that the entity is responsible for abuse, neglect, exploitation, misappropriation, or mistreatment of an individual for whom the entity is responsible.

(c) Sanctions do not include any action to recoup moneys that are determined by the department to be unearned.

(d) This section does not prevent termination of any contract with the licensed entity in accordance with the provisions of that contract. In those cases, the contractor has only the due process rights, if any, otherwise provided by law regarding termination of state contracts.

(e) All sanctions, except for financial sanctions, may be imposed immediately by the department. This does not prevent the provider from appealing the decision using the process as provided in the Uniform Administrative Procedures Act.

(f) These requirements do not prevent the department or the provider from pursuing alternative means of resolving issues related to sanctions while using the process as provided in the Uniform Administrative Procedures Act is pending.

**52-2-409. Civil penalties.**

(a) A civil penalty of not less than two hundred fifty dollars (\$250) and not more than five hundred dollars (\$500) may be imposed on a licensee for a violation of this title or a rule promulgated pursuant to this title.

(b) A civil penalty of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) may be imposed on a licensee for a second or subsequent violation of the same kind committed within twelve (12) months of the first penalty being imposed.

**52-2-410. Person supported protection trust fund.**



(a) The commissioner shall establish and maintain a person supported protection trust fund, created by the deposit of all civil penalty moneys collected under this part.

(b) The trust fund must be maintained for the purpose of protecting the person supported of a facility or service, whose noncompliance with the conditions of continued licensure, applicable state and federal statutes, rules, or contractual standards threatens the persons supported's care or property or the facility's or service's continued operation.

(c) Notwithstanding any law to the contrary, trust funds remaining unspent at the end of the fiscal year must be carried over into the budget of the department for the subsequent fiscal year and must continue to be carried over from year to year until expended for the purposes prescribed in this section.

**52-2-411. Surveyor; notification of violation.**

If the department finds a violation of a statute or rule that may be a ground for a civil penalty, the department must advise the licensee of the finding orally before concluding the survey.

**52-2-412. Injunction.**

(a) The department may sue to enjoin any person, partnership, association, or corporation from establishing, conducting, managing, or operating any service or facility providing intellectual or developmental disability services, aging services, or personal support services within the meaning of this title without having obtained a license or while its license has been suspended or revoked. Suit may be brought in the name of the state, either by the attorney general and reporter or by the legal counsel for the department, in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violations occurred.

(b) In charging any defendant in a complaint for injunction, it is sufficient to charge that the defendant did, upon a certain day and in a certain county, establish, conduct, manage, or operate a service or facility providing intellectual or developmental disability services or personal support services or that the defendant is about to do so without having a license, without averring any further or more particular facts concerning the case.

**52-2-413. Inspections.**

(a) The department shall make at least one (1) unannounced visit to review quality standards and to perform a life safety and environmental inspection, as applicable, of each licensed service or facility yearly. The department may deem a service or facility in compliance without inspection if the service or facility meets another government agency's certification or accreditation requirements provided for in rules of the department.

(b) With or without giving notice, the department may enter the premises and inspect any applicant, licensee, or facility that is providing intellectual or developmental disability services or personal support services without a license when a complaint is filed with the department against the applicant or licensee or when the department otherwise deems inspection in the interest of persons supported. Inspection may include review of the physical plant, program, activities, and applicant or licensee records.

(c) The department may charge a fee for any service or facility inspection in an amount not to exceed fifty dollars (\$50.00).

(d) If the department finds noncompliance with life safety or food service standards relating to non-life-threatening issues, the department must refer the findings to the state or local agency responsible for life safety or food service inspection for

reinspection or review in accordance with life safety or food service standards. The department shall accept the state or local agency's determination.

(e) The department shall, to the extent practicable, coordinate life safety inspections to avoid duplication without good cause in the same calendar year by other government agencies that apply substantially the same standards.

(f) The department shall include in its annual inspection of each facility licensed under this title a determination of the facility's compliance with the reporting requirements in § 52-3-116. The facility must document its compliance with a record of its communication with local law enforcement with respect to the commitments. A facility's failure to comply with the reporting requirements subjects the facility to civil penalties or other action against the facility's license under § 52-2-407.

**52-2-414. Department assistance.**

The department may provide assistance to applicants for a license under this part. The department shall provide assistance in placing persons supported who are adversely affected by denial, suspension, or revocation of a license under this part.

**52-2-415. Provisional licenses.**

(a) The department may grant a provisional license for up to one (1) year to a service or facility if:

(1) The service or facility is making a diligent effort to comply with standards adopted under this part;

(2) The continued operation of the service or facility will not endanger the health or safety of its persons supported;

(3) The continued operation of the service or facility is necessary because care is not otherwise reasonably available for its persons supported;

(4) The service or facility has submitted an acceptable compliance plan specifying how and when deficiencies will be corrected; and

(5) The service or facility has substantially met the commitments made in the preceding year's compliance plan, if any.

(b) Failure to meet the commitments made in the compliance plan is a ground for revocation or suspension of the license.

(c) Copies of provisional licenses and compliance plans must be maintained in a central location and are open to public inspection.

**52-2-416. Serious abuse, dereliction, or deficiency in operation of facility; license suspension or revocation.**

(a) The department shall investigate reports of serious abuse, dereliction, or deficiency in the operation of a licensed service or facility.

(b)

(1) A person making any report or investigation pursuant to this part, including representatives of the department in the reasonable performance of their duties and within the scope of their authority, are presumed to be acting in good faith and are immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

(2) Any such person has the same immunity with respect to participation in any judicial proceeding resulting from the report or investigation.

(3) Any person making a report under this part has a civil cause of action for appropriate compensatory and punitive damages against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

(c)

(1) The commissioner shall suspend or revoke the license of any service or facility if serious abuse, dereliction, or deficiency is found and not corrected in a reasonable time.

(2) The commissioner, in the commissioner's discretion, may suspend enrollment in a service or facility pending resolution of the investigation or of proceedings to suspend, revoke, or deny the license, or until the service or facility corrects any serious abuse, dereliction, or deficiency found in the course of the investigation. The commissioner may suspend enrollment in a licensed service or facility based on probable cause to believe that serious abuse, dereliction, or deficiency in the operation of the licensed service or facility has occurred or would occur without suspension of enrollment. Suspension of enrollment must not exceed a period of one hundred twenty (120) days, except that, in the discretion of the commissioner, the period may be extended for an additional period not to exceed one hundred twenty (120) days. This part does not take away from the right of the department to issue an order of summary suspension of the license pursuant to § 4-5-320(c) and (d).

**52-2-417. Services without license; cease and desist order.**

(a) If the commissioner finds that a service or facility is providing intellectual or developmental disability services, aging services, or personal support services without a license, the commissioner may, without prior notice, order the service or facility immediately to cease and desist from providing intellectual or developmental disability services, aging services, or personal support services. Before issuing a cease and desist order, the commissioner shall find that issuing the order is in the public interest; necessary for the protection of the health, safety, or welfare of the persons supported of the service or facility; and consistent with the purposes fairly intended by this part.

(b) The order must state the relevant findings of fact and conclusions of law that support the commissioner's finding that entering the order without prior notice is in the public interest, necessary for the protection of the persons supported of the service or facility, and consistent with this part. The order must provide notice to the respondent of the respondent's rights and responsibilities concerning review of the order.

(c)

(1) The owner of the service or facility ordered to cease and desist operation may seek review of the order before the commissioner or the commissioner's designee under this subsection (c).

(2) The owner or legal representative of the service or facility may request an informal conference before the commissioner or the commissioner's designee. The request must be filed with the commissioner within thirty (30) days of entry of the order. The commissioner or the commissioner's designee shall convene the requested informal conference within seven (7) days of the date of receipt of the request. The conference is informal, and the service or facility has the right to be represented by counsel at all stages of the informal conference.

(3) The sole issue to be determined at the informal conference is whether the service or facility was operating without a license as required by this part prior to or concurrently with the date of the entry of the order. This part and its rules control this determination. At the conference, the commissioner or the commissioner's designee may uphold, amend, or rescind the cease and desist order. Unless contested under subdivision (c)(4), the original or amended cease and desist order becomes a final order within seven (7) days of the informal conference.

(4) If the commissioner or the commissioner's designee determines, as a result of the informal conference, that the cease and desist order must be amended or must not be rescinded, the owner or legal representative of the service or facility may seek review of the order under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The request must be made in writing to the commissioner within seven (7) days of receipt of written notice of the commissioner's decision. Upon receipt of the request, the commissioner shall immediately refer the matter to the department of state for initiation of contested case proceedings.

(5) If the respondent fails to request an informal conference under subdivision (c)(1), then the cease and desist order becomes a final order of the commissioner within thirty (30) days of its entry. The service or facility may obtain judicial review of this final order in the chancery court of Davidson County under the Uniform Administrative Procedures Act.

(d) It is a Class B misdemeanor to violate a cease and desist order lawfully entered by the commissioner. Each day of operation in violation of the commissioner's cease and desist order, calculated from the date of its service upon the owner or operator of the service or facility, is a separate offense.

(e) This part does not preclude any person, including the department, who is aggrieved by the operation of an unlicensed service or facility from pursuing other remedies and sanctions, including those provided by §§ 52-2-405 and 52-2-412.

**52-2-418. Residential facilities; licensure.**

(a) Any residential facility that houses persons with an intellectual or developmental disability and is required by law to be licensed by the department shall not receive a license if the facility houses more than four (4) persons served and was not

licensed on June 23, 2000. The department shall not license more than two (2) such residential facilities within five hundred yards (500 yds.) in any direction from other such facilities housing persons served. All set-back requirements applicable to lots where such facilities are located apply to such residential facilities.

(b) This section does not apply to:

(1) Housing for persons with mental illness or serious emotional disturbance;

(2) Housing for residents on property owned or leased by the state or a corporation that provides that housing if the property was recorded in the corporate or state name before January 1, 1989;

(3) Housing for persons supported when the commissioner authorizes the transfer of a license at the same site to a successor provider, only if the license holder's contract with the state or its agent is terminated, the transfer of license is necessary to sustain the quality of life of the persons supported, and the successor provider does not increase the number of persons supported at the site; or

(4) Housing for persons on a temporary or transitional basis, such as boarding facilities provided by residential schools or facilities providing services through a specialized court program addressing the needs of individuals both in court custody and dually diagnosed with an intellectual or developmental disability and a mental illness.

(c) Notwithstanding any law or rule to the contrary, a residential facility or provider licensed by the department to provide residential services to persons with an intellectual or developmental disability is not prohibited from providing residential



services to the elderly or adults with physical disabilities, so long as the services are adequate to ensure the health, safety, and welfare of each resident.

**52-2-419. Training and continuing education.**

(a) Any individual employed by a personal support services agency to provide personal support services must complete standardized training and continuing education under department rules.

(b) The department may create classifications for personal support services agencies specializing in a type of service or care and may require additional training and continuing education for those classifications.

**52-2-420. Licensure for personal support services.**

If an agency is licensed as a personal support services agency under this title, it does not have to be licensed under title 68, chapter 11, part 2, as a home care organization to provide personal support services. If an agency is licensed under title 68, chapter 11, part 2, as a home care organization, it does not have to be licensed under this title to provide personal support services.

**52-2-421. Personal support services; consumer notices; notices.**

(a) As used in this section, unless the context otherwise requires:

(1) "Personal support services agency":

(A) Means a sole proprietorship, partnership, corporation, limited liability company, or a limited partnership that provides personal support services as defined in this part; and

(B) Includes an entity that employs or subcontracts with individuals who provide personal support services to persons supported; and

(2) "Personal support services worker" means a person licensed as a personal support services agency, or an employee or an individual subcontracted by a personal support services agency who is providing personal support services pursuant to an arrangement between a person supported and a personal support services agency.

(b) In addition to the standards and requirements for personal support services as established by rules adopted by the department, personal support services agencies shall comply with the requirements in this section.

(c) A personal support services agency shall provide to each person supported a consumer notice before beginning service, which must include, at a minimum, the following:

(1) The duties, responsibilities, obligations, and legal liabilities of the personal support services agency, the personal support services worker, and the person supported. The description must clearly set forth the responsibility, if any, of the person supported for:

(A) Day-to-day supervision of the personal support services workers;

(B) Assigning duties to the personal support services worker;

(C) Hiring, firing, and discipline of the personal support services worker;

(D) Provision of equipment or materials for use by the personal support services worker;

(E) Performing a criminal background check on the personal support services worker;

(F) Checking the personal support services worker's references;

and

(G) Ensuring credentials and appropriate licensure and

certification of a personal support services worker; and

(2) A statement identifying the personal support services agency as an employer, or contractor, as applicable, of the personal support services worker along with the responsibility the personal support services agency will assume for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security, workers' compensation, and unemployment compensation payments.

(d) A personal support services agency shall provide a notice to each personal support services worker who is placed with a person supported before the worker provides any service to the person supported. The worker notice must contain the following information:

(1) The relationship between the personal support services agency and the personal support services workers; and

(2) A description of the duties, responsibilities, obligations, and legal liabilities of the personal support services agency, the person supported, and the personal support services worker. The description must include the following information:

(A) A statement identifying the employing or contracting personal support services agency as responsible for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security,

unemployment, and workers' compensation insurance as prescribed by state and federal law; and

(B) A statement identifying which party is responsible for the personal support services worker's hiring, firing, discipline, day-to-day supervision, assignment of duties, and provision of equipment or materials for use by the personal support services worker.

(e) The notices required under subsection (c) must be signed by the person supported or the person's authorized representative and retained by the personal support services agency at its office for not less than two (2) years following termination of service.

#### **Part 5 Transportation**

##### **52-2-501. Transportation options.**

The department may develop an array of options for transportation for all regions of the state that includes, but is not limited to, willing family members, transportation agents that are available twenty-four (24) hours per day, ambulances or other medically appropriate vehicles, law enforcement, and public and private service providers.

##### **52-2-502. Transportation services meeting.**

The department shall, at least annually, convene a meeting on transportation services for persons with an intellectual or developmental disability. The purpose is to promote development of interagency agreements under § 52-1-106 that assure availability of generic and specialized transportation services to persons supported and their families, coordinate service options, coordinate and maximize utilization of funding mechanisms, and assure training of transportation personnel in best practices for transporting persons supported. Participants must include affected state agencies, local government, public and private transportation service providers, intellectual and

developmental disability service providers, persons supported, and family members of persons supported. There must be a sufficient number of persons supported and their family members to assure effective representation in the meeting.

### **Part 6– Conflict Resolution**

#### **52-2-601. Conflict resolution; rules, policies, procedures, guidelines.**

The department may adopt rules, policies, procedures, or guidelines for conflict resolution to assure quick resolution, minimize disruption of service and support to persons supported, and minimize the cost of conflicts in providing services and supports.

#### **52-2-602. Conflict resolution procedures and appeal processes; adoption by licensees.**

Every licensee under this title shall have a clear conflict resolution procedure, including an appeal process, that complies with the department's rules, policies, procedures, and guidelines, as applicable, and shall communicate the procedure to each person supported and their family, as appropriate, involved in the service. Termination of service or support because a third-party payer refuses to continue to fund the service or support is not subject to the conflict resolution procedure. The location where service or support is to be provided is not subject to the conflict resolution procedure unless the location is inaccessible to the person supported and their family, as appropriate. The procedure must include the means to resolve a conflict informally and expeditiously in conformity with the department's rules, policies, procedures, or guidelines, as applicable. A licensee shall not cease to provide services and supports to a person supported with an intellectual or developmental disability during the pendency of the conflict resolution over the objection of the person supported.

#### **52-2-603. Application of part.**

This part does not apply to grievances that are to be resolved under § 52-5-209(b)(3), policies, and procedures.

### **Part 7 – State Facilities**

#### **52-2-701. Security guards; powers.**

The security guards at all department facilities and other personnel the commissioner may designate are vested with the powers and authority of peace officers and shall exercise the powers and authority on the grounds of facilities under the supervision of the department.

#### **52-2-702. Private grounds; trespassing; penalty.**

The enclosed premises and the adjoining land belonging to or used by and for any of the state facilities, are private grounds. If a person goes on the premises without authority or permission, the person commits a Class C misdemeanor.

### **Part 8 – Costs in Private Nonprofit Facilities**

#### **52-2-801. Nonprofit service providers; purchasing goods and services.**

Any corporation that is exempted from taxation under 26 U.S.C. § 501(c)(3), and that contracts with the state or its agents to provide services or supports to the public is authorized to purchase or contract to purchase goods or services on the same terms and conditions as that contracted for by the state under state purchasing contracts. Purchases by and for the corporation are not required to be made through the purchasing division of the department of general services.

### **Part 9 – Costs in State Facilities**

#### **52-2-901. Charges for services.**

(a) The commissioner, with the approval of the comptroller of the treasury and the commissioner of finance and administration, may establish by rule a method for determination at least annually of charges for services and supports provided to persons

supported in programs operated by the department, including the charges for all institutional or professional services.

(b) Charges must be calculated using generally accepted accounting principles.

**52-2-902. Indigency determination; payments.**

(a) The commissioner, with the approval of the comptroller of the treasury and the commissioner of finance and administration, may establish rules for determining indigence and payments to be made periodically by nonindigent persons supported or their responsible relatives.

(b) Periodic payments by the person supported or the responsible relative must be based on ability to pay as determined by factors the commissioner considers relevant.

**52-2-903. Liability for charges.**

If an individual is a person supported in a program operated by the department or is the parent of an unemancipated child who is a person supported by a program operated by the department, then the person is liable for the charges for the services and supports provided.

**52-2-904. Nonindigent person supported; payments.**

If a person supported who is not indigent receives service from a program operated by the department, then the department may at least annually establish an amount to be paid periodically by the person supported and each responsible relative.

**52-2-905. Liable parties; duty to provide information.**

(a) The person supported who receives services and supports, the person supported's conservator or guardian, and persons who are legally liable for charges for services and supports shall furnish all information that the department deems necessary to determine the person's financial liability.

(b) If a person willfully refuses to provide the information or knowingly provides false information that results in an underassessment of liability, then the person is liable for the total charges for services and supports provided and for the amount of the state's expenses incurred in recovering the amounts, including attorney salaries or fees.

**52-2-906. Services under court order; demand for money.**

If a person supported obtains services and supports under a court order from a program operated by the department, then the department may demand any of the person supported's money that is in the custody of the court and credit it to the person supported's account.

**52-2-907. Continuing claims.**

The state has a continuing claim against a person supported by a program operated by the department and the estate of the person supported and against responsible relatives for any unpaid difference between what the department determines the person owes and what was paid for the service provided. If the person supported dies, or a responsible relative of the person supported dies, and the commissioner presents a claim for a sum unpaid and owing to the state on account of the person supported, then the claim must be paid from the estate of the deceased person.

**52-2-908. Voluntary payment.**

If a person who is not legally responsible to pay for a person supported's care contributes funds voluntarily for the person supported's care, then the department may accept the funds.

**52-2-909. State; provision of care.**

(a) A person supported shall not receive care at the expense of the state in a program operated by the department, except:

- (1) A person who is indigent;



(2) A person subject to evaluation, diagnosis, or treatment, under chapter 5, parts 4 and 5 of this title;

(3) A person whose service is paid for, in part, by state or federal government and the payment is conditioned on the department's acceptance of it as full satisfaction of the person's liability; or

(4) A person whose service is paid for by the person supported or another person or a third party and the department determines, under standards approved by the commissioner of finance and administration and the comptroller of the treasury, that the state's interests are best served by accepting payment offered as full satisfaction of the person supported's liability.

(b) Subdivision (a)(4) does not apply to any claim for payment for which the state has a suit pending to recover payment.

**52-2-910. Discrimination.**

There must be no discrimination in provision of services or supports based on inability to pay.

**Part 10 – Personnel and Volunteers**

**52-2-1001. Investigative reports release; fingerprints.**

(a) To help the department determine the suitability of a person for volunteer services or employment and verify the accuracy of information submitted in support of an application to work for the department, any person who applies to work for the department as an employee, or any volunteer, whose function would include direct contact with or direct responsibility for persons with an intellectual or developmental disability shall:

(1) Agree to the release of all investigative records about the person from any source, including federal, state, and local governments; and

(2) Supply a fingerprint sample for the conduct of a criminal background investigation by the Tennessee bureau of investigation. If no disqualifying record is identified, then the bureau must send the fingerprints to the federal bureau of investigation for a national criminal history record check.

(b) The department shall pay the costs for conducting any investigation under this section.

**52-2-1002. Background checks.**

(a) Each facility or entity providing a service licensed under this title shall have a criminal background check completed on any employee, subcontractor, or volunteer who is in a position that involves providing direct contact with or direct responsibility for persons supported. The background check must be completed before allowing the person to have any direct contact with or direct responsibility for persons supported.

(b) For purposes of this section:

(1) An employee, subcontractor, or volunteer is considered to be in a position that involves "direct contact" with a person supported if the employee, subcontractor, or volunteer is supporting the person in the performance of personal care duties or assistance with activities of daily living for the person receiving services; and

(2) An employee, subcontractor, or volunteer is considered to be in a position that involves "direct responsibility" for a person supported if the employee, subcontractor, or volunteer either has responsibility for the person receiving services or supervisory authority for staff having direct contact with a person receiving services.

(c) Persons applying for employment shall:

(1) Supply fingerprint samples to be submitted for a criminal history records check to be conducted by the Tennessee bureau of investigation or the federal bureau of investigation; or

(2) Release information for a criminal background investigation by a state-licensed private investigation company.

(d)

(1) The facility or entity, at a minimum, shall attempt to communicate directly with the most recent employer.

(2) Subsections (a) and (e) do not apply to facilities or entities that contract with the state or its agents for residential services, day services, or supported employment services, and such facilities or entities shall comply with subsection (f).

(3) The organization shall check the registry maintained by the health facilities commission pursuant to § 68-11-1001 prior to employment of applicants or their use as a volunteer in the organization. An individual who is listed on the registry must not be hired or otherwise permitted to provide services in the organization.

(e) Any cost incurred by the Tennessee bureau of investigation, the federal bureau of investigation, or a state-licensed private investigation company must be paid by the organization requesting the investigation and information. If the background check is conducted by the Tennessee bureau of investigation or the federal bureau of investigation, then the payment of the costs must be made in the amounts established by § 38-6-103.

(f)

(1) Notwithstanding subsection (b), only with respect to facilities or entities that contract with the state or its agents for residential services, day services, or supported employment services, each such facility or entity shall have a criminal background check completed prior to employing any person who is in a position that involves providing direct care to a person supported. If a current employee of such facility or entity has a change of responsibilities that includes direct contact with, or direct responsibility for a person supported, then the facility or entity must have a criminal background check completed prior to such change. The facility or entity shall inform the employee that it will conduct a background check. The employee shall:

(A) Supply fingerprint samples to be submitted for a criminal history records check to be conducted by the Tennessee bureau of investigation or the federal bureau of investigation; or

(B) Release information for a criminal background investigation by a state-licensed private investigation company.

(2) A facility or entity that contracts with the state or its agent for residential services, day services, or supported employment services shall communicate directly with the most recent employer. Prior to employment, the facility or entity shall submit the information required to be provided by this subsection (f) to the entity that will conduct the criminal background check.

(3) A facility or entity that contracts with the state or its agent shall check the registry maintained by the health facilities commission, pursuant to § 68-11-1001, prior to employment of applicants or their use as volunteers in the organization. An individual who is listed on the registry must not be hired or otherwise permitted to provide services in the organization.

**52-2-1003. Temporary staffing.**

If, in the commissioner's judgment, the occupancy level at a state-owned or -operated facility or treatment resource requires additional staffing for a temporary period in order to maintain suitable available accommodations, then the commissioner is authorized to contract for and utilize temporary staffing at the affected location.

**Part 11 – Conflict of Interest**

**52-2-1101. Employees and officers; interest in facility; disclosure.**

A person shall disclose an ownership interest to the department or licensee, and shall not serve in a capacity of decision making or influence or responsibility for the direct referral or placement of persons to any residential facility that provides intellectual or developmental disabilities services or supports, if:

(1)

(A) The person is an officer or employee of the department; or

(B) The person is an officer or employee of a licensee of the department; and

(2)

(A) The person or the person's spouse, parent, grandparent, brother, sister, or child has an ownership interest in a residential facility that is not publicly held or an ownership interest in a business that is not publicly held that owns or manages a residential facility that provides intellectual or developmental disabilities services or supports;

(B) The person or combination of persons named in subdivision (2)(A) has an ownership interest of at least thirty-five percent (35%) in a residential facility that is publicly held that provides intellectual or developmental disability services; or

(C) The person or combination of persons named in subdivision (2)(A), has an ownership interest of at least thirty-five percent (35%) in a business that is publicly held that owns or manages a residential facility that provides intellectual or developmental disability services.

**52-2-1102. Violation of § 52-2-1101; penalty.**

(a) If a person violates § 52-2-1101, then the commissioner must assess a civil penalty of one thousand five hundred dollars (\$1,500) per incident against the person for each violation.

(b) A penalty must be assessed only after an informal hearing is held in the same manner as an informal hearing is held prior to the suspension of a license under § 4-5-320(d).

(c) If services or supports to a recipient of intellectual or developmental disabilities services or supports have been provided in violation of § 52-2-1101, then the commissioner may:

- (1) Require transfer of the person supported to another provider of services or supports as soon as is reasonably practical;
- (2) Authorize a person supported to remain with the provider of services or supports if the commissioner determines it to be in the best interests of the person supported to remain with the provider of services or supports;
- (3) Restrict the referral of other persons supported to the provider of services or supports;
- (4) Exercise a combination of the preceding powers; or
- (5) Impose any other appropriate sanctions in the discretion of the commissioner.

**52-2-1103. Contractors; interest in facility; disclosure of information.**

A person to whom this part applies shall disclose the information required by this part before being hired or as a part of a contract entered into with a provider of intellectual or developmental disability services or supports. Failure to disclose the information subjects the person to removal from the position held or the contract to cancellation or renegotiation.

**52-2-1104. Relief of responsibility; personnel records.**

If a person is relieved of decision-making authority or responsibility under this part, then the personnel records of the officer or employee must state that the officer or employee was relieved of authority or responsibility solely to conform to this part.

**Chapter 3 – General Rules Applicable to Persons Supported**

**Part 1 – General Rights of All Persons Supported**

**52-3-101. Rights; limitations.**

(a) A person must not be deprived of liberty on the grounds that the person has or is believed to have an intellectual or developmental disability or is in need of service for such a condition, except in accordance with this title.

(b) A person supported has the same rights as all other persons, except to the extent that the person's rights are curtailed in accordance with this title or other state or federal law.

(c) A person supported must be provided services or supports, to the extent that facilities, equipment, and personnel are available, in accordance with community standards.

(d) The department shall keep records detailing services or supports received by each person. Records must be preserved by the department for not less than ten (10) years after termination of service. The records may be generated, maintained, or transferred in whole or in part to any recording medium that assures accurate

preservation of the record. If a record is transferred from one (1) medium to another, then the source record may be destroyed upon determination by the department that the reproduced record is true and correct and will be accurately preserved. The reproduced record is deemed to be the original record.

**52-3-102. Specific rights; basis for denial; conservator.**

(a) A person with an intellectual or developmental disability admitted, whether voluntarily or involuntarily, or ordered to participate in nonresidential treatment or service under this title, must not, solely by reason of the admission or order, be denied the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, give informed consent to treatment, and vote, unless:

(1) The person supported's decision making rights have been removed by a court of competent jurisdiction and those specific rights have not been restored; or

(2) The denial is authorized by state or federal statute.

(b) A person shall not make decisions for a person supported on the basis of a claim to be the person supported's conservator, legal guardian, guardian ad litem, caregiver under title 34, chapter 6, part 3, or to be acting under a durable power of attorney for health care under title 34, chapter 6, part 2, until the person has presented written evidence of the person's status.

**52-3-103. Records; confidentiality.**

All applications, certificates, records, reports, legal documents, and pleadings made and all information provided or received in connection with services applied for, provided under, or regulated under this title and directly or indirectly identifying a person supported or former person supported must be kept confidential and must not be disclosed by any person, except in compliance with this part. These confidentiality



protections remain in effect until fifty (50) years after the death of the individual who is the subject of the confidential information, in accordance with 45 CFR 160.103.

**52-3-104. Confidential information; persons authorized to disclose.**

Information about a person supported that is confidential under § 52-3-103 may be disclosed with the consent of:

- (1) The person supported who is sixteen (16) years of age or older;
- (2) The conservator of the person supported or a conservator whom the court has granted the authority to make such disclosures;
- (3) The attorney in fact under a power of attorney who has the right to make disclosures under the power;
- (4) The parent, legal guardian, or legal custodian of a person supported who is a child;
- (5) The person supported's guardian ad litem for the purposes of the litigation in which the guardian ad litem serves;
- (6) The executor or administrator of the estate of a deceased adult person supported, or the parent or legal guardian of a deceased person supported who was a minor at the time of death;
- (7) The caregiver under title 34, chapter 6, part 3; or
- (8) An individual acting as an agent, or a person's surrogate as designated, under the Tennessee Health Care Decisions Act, compiled in title 68, chapter 11, part 18.

**52-3-105. Confidential information; disclosure without consent.**

Information that is confidential under § 52-3-103 may be disclosed without consent of the person supported if:

- (1) Disclosure is necessary to carry out duties under this title;

(2) Disclosure is for the purposes of treatment, payment for treatment, or health care operations as those terms are defined in 45 CFR 164.501;

(3) Disclosure may be necessary to assure service or care to the person supported by the least drastic means that are suitable to the person supported's liberty and interests;

(4) The disclosure is for a judicial or administrative proceeding and the confidential information is disclosed in compliance with the requirements in 45 CFR 164.512(e);

(5) It is solely information as to a residential person supported's overall medical condition without clinical details and is sought by the person supported's family members, relatives, conservator, legal guardian, legal custodian, guardian ad litem, foster parents, or friends. A disclosure made under this section must only be made if it is not contrary to any other law, rule, or court order;

(6) A person supported moves from one (1) service provider to another and exchange of information is necessary for continuity of service;

(7) A custodial agent for another state agency that has legal custody of the person supported cannot perform the agent's duties properly without the information;

(8) Necessary for the preparation of a post-mortem examination report in accordance with § 38-7-110(e) and authorized to be obtained pursuant to § 38-7-117(b); or

(9) The disclosure is one permitted under 45 CFR 164.512 and the disclosure complies with the requirements in 45 CFR 164.512.

**52-3-106. Federally mandated protection and advocacy agency; organization paying for treatment; disclosure of information.**

(a) If the head of the federally mandated protection and advocacy agency for persons with an intellectual or developmental disability, or the designated representative of the agency head, requests disclosure of information protected by § 52-3-103 and specifies the personally identifiable person supported information sought and the federally mandated function for which it is required, then the information may be disclosed to the agency without consent. The disclosure of information must be made solely for use in connection with the federally mandated function. The disclosures are subject to federal confidentiality laws, including the requirement that there be no further disclosure of the personally identifiable information by the agency without consent of the person supported or, as appropriate, the conservator of the person supported, or the parent's or legal guardian's consent in the case of a child. The service provider shall notify the person supported or, as appropriate, the conservator of the person supported, or the person supported's parent or legal guardian in the case of a child, of the disclosure. All public and private service providers shall cooperate with the agency in responding to requests, including, but not limited to, those made under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. §§ 15001 et seq.); the Protection and Advocacy for Mentally Ill Individuals (PAMII) Act of 1986 (42 U.S.C. § 10801 et seq.); and the Protection and Advocacy for Individual Rights Act (29 U.S.C. § 794e).

(b) If an organization pays for a service provider's service to a person supported, then the service provider may disclose to the organization without the person supported's consent only such information about the person supported as is reasonably necessary to obtain timely payment. Disclosures are on the condition that there be no further disclosure of the personally identifiable information by the agency without the person supported's consent.

(c) If the department determines that an emergency substantially impairs a provider's capacity to provide service to its persons supported and the department appoints a receiver for person supported information, then the person supported's information may be transferred to a new service provider without the person supported's consent.

**52-3-107. Rules.**

The department may promulgate rules to implement this part, including rules on the form, content, and means of consent and disclosure, scope of permissible disclosure, and definitions of terms.

**52-3-108. Reports of harm; granting access to records; disclosure of identity.**

(a) Section 52-3-103 does not preclude making reports of harm or granting access to records if making reports of harm or granting access to records is:

- (1) Expressly required by title 37, chapter 1, part 4;
- (2) Expressly required by title 37, chapter 1, part 6;
- (3) Expressly required by title 71, chapter 6; or
- (4) Requested by a state or federal entity investigating reports of abuse, neglect, or exploitation under the respective authority of that state or federal entity.

(b)

(1) The identity of a person who reports abuse, exploitation, fraud, neglect, misappropriation, or mistreatment to the department is confidential and must not be disclosed without the person's consent, except as follows:

- (A) As necessary to carry out the laws cited in subsection (a);
- (B) To employees of the department as necessary to investigate the report;

(C) To the abuse registry established and maintained under title 68, chapter 11, part 10;

(D) To the appropriate district attorney general;

(E) By order of a court with jurisdiction over abuse, exploitation, fraud, neglect, misappropriation, or mistreatment; or

(F) By order of a court or administrative law judge in a proceeding involving sanctions or disciplinary actions against a caregiver or an entity accused of abuse, exploitation, fraud, neglect, misappropriation, or mistreatment, when it appears to such court or administrative law judge that the person making the report is or may be a witness to facts relevant to the proceeding.

(2) The person's identity is irrelevant to any civil proceeding and is not subject to disclosure, except in cases where a caregiver or other person is the subject of a complaint and can make a showing that the complaint was made with malice so that the caregiver or other person may pursue such remedies as may be permitted by law. The person may be subpoenaed if the department or district attorney general deems it necessary to protect the person supported who is the subject of the report, but the fact that the person made the report must not be disclosed.

**52-3-109. Release of information to family members; authorization.**

(a) A person supported must be given an opportunity to approve and sign an information release that authorizes the facility, service, or program to release specified information concerning the person supported to certain family members and other designated persons.

(b) The person supported may withdraw authority to release all information previously authorized, withdraw authority to release the information to any individuals previously authorized, or modify either the type of information authorized in subsection (c) or the individuals to whom the information may be provided. All such changes must be executed in writing by the person supported or:

(1) The conservator of the person supported;

(2) The attorney in fact under a power of attorney who has the right to make disclosures under the power;

(3) The parent, legal guardian, or legal custodian of a person supported who is a child;

(4) The person supported's guardian ad litem for the purposes of the litigation in which the guardian ad litem serves;

(5) The executor or administrator of the estate of a deceased person supported; or

(6) The caregiver under title 34, chapter 6, part 3.

(c) The information release must provide the person supported options for authorized disclosures to:

(1) Specified family members that discloses only location;

(2) Specified family members who are to be involved with discharge instructions and linking to other services; and

(3) Specified family members who are to be involved in and supportive in the treatment process.

**52-3-110. Acts of bodily harm and sexual offenses; disclosure to a law enforcement agency.**

(a) Section 52-3-103 does not prohibit disclosure to a law enforcement agency that has jurisdiction over felonious acts of bodily harm or sexual offenses that appear to have been committed on the premises of a facility whose records are made confidential by § 52-3-103.

(b) If the felonious act involves a sexual offense governed by title 37, chapter 1, part 6, or title 71, chapter 6, part 1, in a locality having a sex abuse crime unit, disclosure for law enforcement investigative purposes must be made only to that unit of the law enforcement agency. This section does not limit the requirements of disclosure of reports of harm and access to records required by title 37, chapter 1, parts 4 and 6, or title 71, chapter 6, part 1, for investigations by the department of children's services or the department of human services.

(c) Permissible disclosure of a felonious act for the purpose of conducting a necessary investigation includes:

(1) The name of, and providing access to, witnesses or potential witnesses of the offense;

(2) The name of, and providing access to, suspects or potential suspects of the offense; and

(3) The scene of, and providing access to, where the offense occurred.

(d) Section 52-3-103 does not prohibit disclosures to law enforcement when the disclosure is made in compliance with the requirements in 45 CFR 164.512(f).

**52-3-111. Records for child receiving services; availability to person accused of abusing child.**

(a) In any case where a person is known to have been accused of physically or sexually abusing or neglecting a person supported who is a child, the person supported's record must not be accessible to the person accused of the abuse or neglect, except if:

(1) A court orders access under § 52-3-105(4); or

(2)

(A) The child's qualified mental health professional has determined in the course of the treatment or service, after consultation with the child, the child's guardian ad litem, and others on the child's behalf whom the professional deems appropriate, that the release of the child's record to the accused person would not be harmful to the child; and

(B) The accused person is the parent, legal guardian, or legal custodian of the child.

(b) If the court permits access to the child's record under subsection (a), then the court has jurisdiction to issue any necessary orders to control access to and use of the information by the person seeking access, including the issuance of injunctive relief.

**52-3-112. Person supported; access to own records.**

(a) Upon request by a person supported eighteen (18) years of age or older, or the person supported's conservator, if applicable, a service provider must disclose to the person supported or their conservator what records the provider maintains on the person supported and how the person supported or conservator can obtain access to them.

Upon written request by a person supported or their conservator, a service provider must permit the person supported or conservator, within a reasonable time, to review the person supported's record, or the part of the record that the person supported or conservator requests, or a copy of the record, or a copy of the part of the record that the person supported or conservator requests, except to the extent that:

(1) The person supported's or conservator's access to the record is expressly restricted or prohibited by another statute or court order; or



(2) The provider is authorized to deny access under subsection (b).

(b) If a person's qualified mental health professional determines that giving the person supported, or a person acting for the person supported, access to part of the person supported's record poses a substantial risk of serious harm to the health or safety of the person supported or another person, then the qualified mental health professional may refuse access to that part of the record.

**52-3-113. Record amendment.**

(a) If a person supported, or that person's conservator with healthcare decision-making authority, requests amendment of the person supported's record by revision, deletion, or addition to correct the record, then the service provider must, within ten (10) working days after receiving the request, either make the amendment to assure that the person supported's records do not contain inaccurate, irrelevant, or otherwise inappropriate information or inform the person supported, or the person's conservator, of its refusal, the reason for the refusal, and the procedure, if any, for further internal review of the decision.

(b) If any provider decides that it will not amend the record in accordance with the request, then the provider must permit the person supported, or the person's conservator, to file a concise statement of the reasons for the person supported's or conservator's disagreement.

(c) If any provider discloses any of the disputed information, then the provider must clearly note the disputed information and provide a copy of the statement of disagreement. If the provider wishes, it may also provide a concise statement of its reasons for not making the requested amendments.

(d) The person supported, or their conservator, shall not personally alter the record.

**52-3-114. Mental health professionals; compulsion to testify.**

Notwithstanding any evidentiary privilege, including pursuant to §§ 24-1-207, 63-11-213, 63-22-114, and 63-23-109, a qualified mental health professional may be compelled to testify, except in:

(1) Judicial proceedings under this title to commit a person with an intellectual disability to treatment, if the qualified mental health professional decides that the person supported is in need of compulsory care and treatment;

(2) In proceedings for which the qualified mental health professional was ordered by the court to examine or train the person supported, if the person supported was advised that communications to the qualified mental health professional would not be privileged; and

(3) Guardianship, conservatorship, and veterans' guardianship proceedings under title 34.

**52-3-115. Penalty.**

A violation of §§ 52-3-103 – 52-3-114 is a Class C misdemeanor.

**52-3-116. Involuntary commitment; reports.**

(a) If a person supported is involuntarily committed to an inpatient treatment facility under this title, then the inpatient treatment facility must report the person supported to local law enforcement as soon as practicable, but no later than the third business day following the date of such commitment. Additionally such facility must report the person supported to the federal bureau of investigation-NICS Index and the department of safety as soon as practicable, but no later than the third business day following the date of receiving such notification, for the purposes of complying with the NICS Improvement Amendments Act of 2007 (NIAA) (Pub. L. No. 110-180), as amended.

(b) If an inpatient treatment facility is required to report pursuant to subsection (a), then the facility must report the following information:

- (1) Complete name of the person involuntarily committed;
- (2) Date involuntary commitment was ordered;
- (3) Private or state hospital or treatment resource to which the individual was involuntarily committed;
- (4) Date of birth of the person involuntarily committed;
- (5) Race and sex of the person involuntarily committed; and
- (6) Social security number of the person involuntarily committed, if available.

(c) The information in subsection (b), the confidentiality of which may be protected by other law or rules, must be maintained as confidential and not be subject to public inspection pursuant to such law or rules, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353, and 39-17-1354.

**52-3-117. Isolation and restraints.**

(a) Persons supported have the right to be free from isolation and restraints, in any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraints include physical and mechanical restraints and drugs used to control behavior or to restrict freedom of movement if the drug or the dosage of the drug is not a standard treatment for the person supported's medical or psychiatric condition. As used in this section, "isolation" means the placement of a person alone in a room from which egress is prevented. Isolation and restraint may only be used while the condition justifying its use exists.

(b) A person with an intellectual or developmental disability may only be restrained as part of an approved plan or in emergency situations, if necessary, to assure the physical safety of the person or another person nearby or to prevent significant destruction of property. Isolation may only be used with a person with an intellectual or developmental disability or developmental delay as part of the person's approved plan. Only psychologists, psychological examiners, senior psychological examiners, physicians, behavior analysts, master's degree social workers, and others authorized to do so under department rules may develop a plan that includes or authorizes isolation or restraint.

(c) Staff shall remain in the physical presence of a person in restraint. Staff shall continuously observe a person in isolation or restraint for the health and well-being of the person.

(d) The professional shall record the use of restraint or isolation, the reasons for its use, and the duration of its use in the person's record.

(e) All staff who may have direct contact with a person being restrained or isolated must receive ongoing education and training in alternative methods for handling behavior and the safe use of isolation and restraint.

(f) The department shall adopt rules as to circumstances under which use of restraint and isolation are permitted. The department shall distribute the rules to all who provide services covered by this title.

(g) The department shall report annually to the statewide planning and policy council on the use of restraint and isolation in this state and its rules on the subject.

**52-3-118. Certificate of need for commitment; professional limitations.**

A certificate of need for commitment for care and treatment for a person with an intellectual disability that is authorized or required to be made by a physician, psychologist, or other professional under this title is not valid for any purpose if:

(1) It is made by a professional who is a relative by blood, marriage, or adoption, or the legal guardian, conservator, or legal custodian of the person who is the subject of the petition, application, or certificate; or

(2) It is made by a professional who has an ownership interest in a private facility in which the person is to be admitted.

**52-3-119. Right to religious expression.**

A licensee or provider under this title shall not discourage or preclude a person supported from exercising the right to religious expression and shall inform each person supported in a residential environment of this right.

**Part 2 – Special Liability Rules**

**52-3-201. Counselor; liability for suicide.**

(a) As used in this section, unless the context otherwise requires:

(1) "Counseling center" means any nonprofit service operated at least partially with volunteer assistance that provides counseling, assistance, or guidance, either in person or by telephone, to persons with mental illness or serious emotional disturbance; and

(2) "Counselor" means any psychiatrist, psychologist, licensed psychologist with health service provider designation, certified or licensed marital and family therapist, certified or licensed professional counselor, certified or licensed social worker, or other professional trained in the field of psychiatry or psychology, or any nonprofessional person acting under the guidance or supervision of the professionals described in this subdivision (a)(2).

(b) A counselor, while acting within the scope of responsibilities assigned by a counseling center, is not liable civilly or criminally for the suicide or attempted suicide of any person consulting with the counselor.

**52-3-202. Directors of a not-for-profit corporation; liability for acts of persons supported.**

(a) While acting in good faith, the directors of a not-for-profit corporation that provides community residential services or supports for persons with an intellectual or developmental disability are not held personally liable for tortious acts committed by the corporation's persons supported.

(b) Subsection (a) does not preclude imposition of personal liability on a director who also acts as a paid officer or employee of the corporation.

**52-3-203. Predict, warn of, or take precautions to provide protection.**

A qualified mental health professional or behavior analyst shall take reasonable care to predict, warn of, or take precautions to protect an identified victim from a person supported's violent behavior only if:

(1) The person supported has communicated to the professional or analyst an actual threat of bodily harm against a clearly identified victim; and

(2) The qualified mental health professional or behavior analyst, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional or analyst's specialty under similar circumstances, has determined or reasonably should have determined that the person supported has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so.

**52-3-204. Discharge of duty under § 52-3-203.**

The duty imposed by § 52-3-203 may be discharged by the qualified mental health professional or behavior analyst by:

- (1) Informing the clearly identified victim of the threat;
- (2) Having the person supported admitted on a voluntary basis to a hospital;
- (3) Taking steps to seek admission of the person supported to a hospital or treatment resource on an involuntary basis pursuant to chapter 5 of this title; or
- (4) Pursuing a course of action consistent with current professional standards that will discharge the duty.

**52-3-205. Threats; communication to qualified mental health professional or behavior analyst.**

An employee of a service provider shall communicate a threat to a qualified mental health professional or behavior analyst employed by the service provider only if:

- (1) The employee is normally responsible for transmitting or recording communications from a person supported to the professional or analyst; and
- (2) The employee receives a communication from a person supported of an actual threat of bodily harm against a clearly identified victim.

**52-3-206. Duty satisfied; liability.**

If a qualified mental health professional or behavior analyst has satisfied the person's duty under § 52-3-203, § 52-3-205, or § 52-3-207, monetary liability and a cause of action do not arise against the qualified mental health professional or behavior analyst, or any service provider in whose service the duty arose for the qualified mental health professional or behavior analyst for not predicting, warning of, or taking

precautions to provide protection from violent behavior by the person with an intellectual or developmental disability.

**52-3-207. Threats of serious bodily harm or death; reports.**

(a) If a person supported has communicated to a qualified mental health professional or behavior analyst an actual threat of serious bodily harm or death against a reasonably identifiable victim or victims, then the qualified mental health professional or behavior analyst, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the qualified mental health professional or behavior analyst's specialty under similar circumstances, who has determined or reasonably should have determined that the person supported has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so, must immediately report the person supported to local law enforcement, who must take appropriate action based upon the information reported.

(b) If a mental health professional or behavior analyst is required to report pursuant to subsection (a), then the qualified mental health professional or behavior analyst must report the following information:

- (1) Complete name and all aliases of the person supported;
- (2) Name of the mental health professional or behavior analyst and the name of the private or state hospital or treatment resource from which the individual may be receiving services;
- (3) Date of birth of the person supported;
- (4) Race and sex of the person supported; and
- (5) Social security number of the person supported, if available.

(c) The information reported as required by subsection (b), the confidentiality of which may be protected by other law or rules, must be maintained as confidential and



not be subject to public inspection pursuant to such laws or rules, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353, and 39-17-1354.

**52-3-208. Refusal to perform act unlawful under title; liability.**

Monetary liability and a cause of action do not arise against a person or the service provider in whose service the person was acting for, if:

- (1) The person has refused to perform any act that is prohibited by or is not lawful under this title; or
- (2) The person has relinquished authority over a person supported based on a decision by another to whom this title gives express authority to make the decision.

**52-3-209. Uniform assessment process.**

The department may prescribe a uniform assessment process through rule or policy by which to determine whether a person supported lacks capacity to make decisions on issues within the meaning of § 52-3-210.

**52-3-210. Lack of capacity.**

A person "lacks capacity" under this title for a decision about a routine medical, dental, or mental health treatment if:

- (1) The person supported, due to an intellectual disability or mental impairment related to a developmental disability, is unable to make an informed decision about the routine medical, dental, or mental health treatment; and
- (2) The incapacity is shown by the fact that the person is not able to understand the proposed procedure, its risks and benefits, or the available alternative procedures.

**52-3-211. Surrogate decision maker; liability.**

A surrogate may decide for the person supported with respect to the matter in question, and the surrogate who acts in good faith, reasonably, and without malice in connection with the decision is free from all liability, civil or criminal, by reason of the decision, if:

(1)

(A) The adult with an intellectual or developmental disability does not have a conservator; or

(B) The child with an intellectual or developmental disability does not have a parent or legal guardian;

(2)

(A) The licensed dentist determines that the person lacks capacity to make a decision about a routine dental decision;

(B) The licensed psychologist with health service provider designation determines that the person lacks capacity to make a decision about a routine medical or behavioral treatment; or

(C) The licensed physician determines that the person lacks capacity to make a decision about a routine medical treatment;

(3) The physician, psychologist, or dentist uses an assessment process generally accepted within the professional standards of the relevant field;

(4) The physician, psychologist, or dentist determines that someone is eligible to serve as a surrogate decision maker for the person supported on the matter in question under § 52-3-212;

(5) The person supported does not reject the proposed surrogate for the decision in any way; and

(6) The physician, psychologist, or dentist provides the surrogate the information necessary to make an informed decision.

**52-3-212. Surrogate decision maker; eligibility.**

An adult is eligible to serve as a surrogate decision maker for a person supported on the matter in question under §§ 52-3-211 and 52-3-213, if the physician, psychologist, or dentist reasonably determines that the adult:

(1) Knows about the person supported's intellectual or developmental disability and medical or behavioral condition as it relates to the matter in question;

(2) Is actively involved in the person supported's life;

(3) Is willing to make a decision for the person supported on the matter in question;

(4) Appears to be reasonably capable of making the decision and likely to make it objectively in the person supported's interest;

(5) Appears to have no conflict of interest with the person supported; and

(6) Is, in order of descending preference for service as a surrogate:

(A) The person supported's spouse;

(B) The person supported's adult child;

(C) The person supported's parent or stepparent;

(D) The person supported's adult sibling;

(E) Any other adult relative of the person supported; or

(F) Any other adult.

**52-3-213. Physician, psychologist, or dentist; reliance on surrogate's decision; immunity.**

If the physician, psychologist, or dentist knows of no family member, of the same or higher order of preference as the surrogate under § 52-3-212(6)(F), who objects to the surrogate's decision, and if the proposed treatment is not solely for behavior control of a person supported, then the physician, psychologist, or dentist:

(1) May act on the surrogate's decision as if the person supported had the capacity to consent and had consented personally; and

(2) Who acts in accord with and in good faith reliance on the surrogate's decision, is not subject to criminal prosecution, civil liability, or professional disciplinary action based on a subsequent finding of the invalidity of the surrogate's decision.

### **Part 3 – Transfers**

#### **52-3-301. Transfer of residential persons supported between facilities.**

(a) The commissioner may authorize the transfer of a person in a facility of the department to another department facility or to a private facility under this section. The commissioner shall give due consideration to the relationship of the person to family, guardian, conservator, and friends so as to maintain relationships and encourage visitation beneficial to the person. If a person whose transfer is authorized has been admitted or committed by court order, then a certified copy of the court order must be sent to the facility to which the person is transferred.

(b)

(1) If the commissioner determines that a person could more properly be cared for and treated in a facility other than the one in which the person is an admitted person supported and that the transfer is in the person's best interest, then the commissioner may authorize the person to be transferred for an indefinite period to another facility. The person may be transferred to a secure

facility, only if, in addition, the commissioner determines that the person is substantially likely to injure the person or others if not treated in a secure facility.

(2) Before a transfer is authorized, the person must be given a physical examination by a licensed physician and a mental assessment and evaluation by a qualified mental health professional, and complete written reports of the examination, assessment, and evaluation must be forwarded to the commissioner by the facility that recommends the transfer. The reports and the recommendation must each include a certificate of need that the transfer is in the person's best interests and a statement of the reasons for the conclusion.

(3) Upon recommending transfer, the department shall immediately give personal notice of the recommendation by telephone or otherwise to the person's spouse, parent, adult child, or legal guardian, as appropriate; the person's conservator, if any; and the person supported. A person must not be transferred less than twenty-four (24) hours after the notices required by this subdivision (b)(3) have been given, unless the person's spouse, parent, adult child, or legal guardian or conservator, if any, has agreed to the transfer or unless a diligent attempt to give notice is unsuccessful.

(4) The commissioner, upon authorizing transfer, shall immediately give written notice of the decision to the person's spouse, parent, adult child, or legal representative, as appropriate; the person's conservator, if any; the committing court, if any; and the person supported. The person may then be transferred immediately.

(c)

(1)

(A) The commissioner may authorize the person to be transferred immediately to another department facility if the commissioner determines, upon the recommendation of the facility requesting a transfer, that:

(i) The person requires emergency care and treatment that cannot be provided by the transferring facility; and

(ii) The transfer is in the person's best interest.

(B) The person may be transferred to a secure facility, if, and only if, in addition, the commissioner determines that the person is substantially likely to injure such person or others if not treated in a secure facility.

(2) If the commissioner approves the emergency transfer, then the commissioner must notify both the transferring and receiving facilities. The transferring facility shall then have the person transferred immediately. A bed must remain open at the transferring facility for seventy-two (72) hours after the transfer for the readmission of the person.

(3) Within seventy-two (72) hours after the transfer, the receiving facility shall determine whether the transfer was appropriate. If the facility determines that the transfer was not appropriate, then the receiving facility must return the person to the transferring facility. If the facility determines that the transfer was appropriate, then the facility must immediately give the person written notice of the decision.

(4) The transfer must not exceed thirty (30) days, after which the receiving facility must return the person to the facility from which the person came.

(5) If the receiving facility determines that the person requires treatment beyond the thirty-day period, then the facility must notify the person in writing and apply for indeterminate transfer under subsection (b). The person shall remain in the receiving facility unless the commissioner denies the application for transfer. If the commissioner denies the application, then the receiving facility must have the person transferred to the transferring facility immediately.

(d) A person may be transferred from a state facility to a licensed private facility or from a licensed private facility to a state facility, upon proper application, approval of the transferring and receiving facilities, and written notice to the committing court, if the person is committed. Once transferred, the person is lawfully admitted to the receiving facility, and the facility may retain the person under the authority of the admission or order applicable to the facility from which the person was transferred.

**52-3-302. Transfer from a youth development center.**

(a) The chief officer of the youth development center of the department of children's services shall order the person's transfer and shall notify the person of the decision and the reasons in writing not less than twenty-four (24) hours in advance of the proposed transfer if the chief officer determines, on the basis of a written report of a licensed physician or licensed psychologist designated as a health service provider, that a person in the youth development center:

(1) Has an intellectual or developmental disability; and

(2) Is in need of residential care and treatment for the condition that cannot be provided by the department of children's services and that can be provided at a residential facility of the department of disability and aging.

(b)

(1) If the person does not object to the transfer within twenty-four (24) hours of notice of the proposed transfer, then the person must be transferred to the appropriate residential program of the department of disability and aging that is designated by the commissioner of disability and aging as having available suitable accommodations. The department of children's services retains legal custody of the person after the person has been transferred to an appropriate residential program of the department of disability and aging.

(2) If the person objects to the transfer within twenty-four (24) hours of notice of the proposed transfer, then the chief officer of the youth development center must convene a transfer committee not less than seven (7) nor more than fourteen (14) days thereafter, and the person must remain in the youth development center pending the decision of the transfer committee.

#### **Part 4 – Judicial Procedures Generally**

##### **52-3-401. Release or discharge during pendency of proceedings.**

Notwithstanding this title, a person with an intellectual or developmental disability, with respect to whom proceedings for admission under a court order have been commenced, must not be released or discharged during the pendency of the proceedings, unless ordered by the court upon application of the person with an intellectual or developmental disability or of the parent, legal guardian, legal custodian, conservator, spouse, or adult next of kin of the person, or upon the report of the facility that the person with an intellectual or developmental disability may be discharged with safety.

##### **52-3-402. Records and recordation; copies of court orders; personal and family history.**



(a) In all judicial proceedings under this title, the clerk of the court in which the proceedings are held shall keep a careful and accurate record of the proceedings.

(b)

(1) Whenever, in a judicial proceeding under this title, a person has been ordered admitted, the clerk of the court shall immediately communicate the action of the court to the department.

(2) A copy of the court order must be forwarded to the department together with a personal and family history of the person with an intellectual or developmental disability that the clerk shall complete, and any other forms or documents required by rules of the department.

(3) The department shall furnish a supply of all necessary forms to the clerks of the various courts.

(c) The clerk may communicate to the department the cost that is included in the costs and expenses of the case.

**52-3-403. Costs; reimbursement; indigent persons.**

(a) The reasonable costs incurred in judicial proceedings under this title must be paid by the subject of the proceedings or the subject's estate or by the subject's responsible relatives and must be a charge upon the estate of those liable.

(b) The reasonable costs incurred in judicial proceedings filed by the department to have a guardian or conservator appointed under title 34, must be paid by the subject of the proceedings in conformity with that law.

(c)

(1) If a subject of proceedings under this title is indigent and does not have responsible relatives able to pay the costs or if a subject of guardianship or conservatorship proceedings filed by the department is indigent under the

guardianship or conservatorship law under title 34, then the state must pay the costs.

(2) For the purpose of subdivision (c)(1), the Tennessee supreme court shall prescribe by rule the nature of costs for which reimbursement may be allowed, and limitations on and conditions for reimbursement of costs as it deems appropriate in the public interest, subject to this section. The rules must also specify the form and content of applications for reimbursement of costs to be filed under this section. The administrative director of the courts shall administer this subsection (c) and rules adopted under this subsection (c), and shall audit and review all applications for reimbursement of costs. Upon finding payment to be in order, the administrative director of the courts shall process the payment from money appropriated for that purpose.

(d) In any case where the subject of the proceedings is judicially determined not to be involuntarily committed or transferred, the costs may be taxed against the person who seeks commitment or transfer of the subject of the proceedings.

(e) The court may require any petitioner to file an undertaking with surety to be approved by the court in an amount the court considers proper to assure the payment of costs and expenses and to save harmless the respondent by reason of costs incurred, including attorney's fees, if any, and damages suffered by the respondent as a result of the action.

(f) Witnesses subpoenaed to appear in proceedings held under this title must be paid fees and mileage as provided by law for witnesses generally.

**52-3-404. Use of audio-visual technology for judicial proceedings.**

(a)

(1) Any judicial proceeding under this title may be conducted by the use of audio-visual technology as set out in this section.

(2) For any other proceedings under this title, the use of audio-visual technology is permissible with the agreement of all parties and at the court's discretion.

(b) Subject to the availability of suitable equipment and notwithstanding any law to the contrary, proceedings may be conducted through two-way electronic audio-video communication without the physical presence of the parties, witnesses, or attorneys before the court. Any such hearing must be conducted so that:

(1) The judge, parties, and their attorneys can see and hear each other throughout the entire hearing, except for the private communications excluded under subdivision (b)(5);

(2) The judge, parties, and their attorneys can see and hear all witnesses while they testify orally during the hearing;

(3) The judge, parties, and their attorneys can hear all questions asked of witnesses during their testimony;

(4) The judge, parties, and their attorneys can hear all questions, statements, objections, motions, and arguments of any attorney or party participating in the hearing; and

(5) The parties and their respective attorneys can communicate privately with each other during the hearing.

**52-3-405. Transmission of pleadings.**

Pleadings and any certificates of need for care and treatment that must be filed in proceedings under this title may be delivered to the court in conformity with the Tennessee Rules of Civil Procedure.

## **Part 5 – Habeas Corpus**

### **52-3-501. Writ of habeas corpus; right to file.**

Any person with an intellectual or developmental disability in a public or private residential facility for persons with an intellectual or developmental disability is entitled to file for a writ of habeas corpus upon petition by the person with an intellectual or developmental disability or a friend to any court generally empowered to issue the writ of habeas corpus in the county in which the person with an intellectual or developmental disability is detained.

### **52-3-502. Mental disability of person; determination to release.**

During any proceeding to determine whether to release a person with an intellectual or developmental disability seeking release by means of a writ of habeas corpus under this part, § 52-3-101, or otherwise, the court shall also, if the issue is raised in the responsive pleading, determine whether the person seeking release presently has an intellectual or developmental disability and meets the standards for involuntary commitment under §§ 52-5-403 and 52-5-404.

### **52-3-503. Court order.**

(a) If, upon consideration of a petition filed pursuant to § 52-3-501, the court determines that the person was not committed under the governing provisions of this title or was not afforded due process of law, but that, nevertheless, the person has an intellectual disability and because of the condition poses a likelihood of serious harm under § 52-5-402, then the court may order the person returned to the facility where the person was located on the date of filing the petition for not more than fifteen (15) days, exclusive of Saturdays, Sundays, or holidays, only if:

(1) A petition under §§ 52-5-403 and 52-5-404 is filed immediately and is disposed of within fifteen (15) days of the court's order returning the person to the facility, exclusive of Saturdays, Sundays, or holidays; and

(2) The case is continued on the request of the petitioner.

(b) If the conditions in subsection (a) are not met, then the person must be released.

**52-3-504. Court order transmission.**

If the court ordering the discharge is not the court that ordered the commitment, then the court must transmit a certified copy of the order to the court that ordered the commitment. Upon receipt of the copy, the court that ordered the commitment shall enter an order finding that the person has been discharged by order of the court that issued the writ of habeas corpus.

**Part 6 – Violations of Person Supported Rights**

**52-3-601. Wrongful commitment; penalty; liability.**

(a) A person commits a Class E felony who:

(1) Without probable cause to believe a person has an intellectual or developmental disability, causes or conspires with or assists a third person to cause the hospitalization or commitment of the person under this title; or

(2) Causes or conspires with or assists another to cause the denial to a person of any right accorded to a person under this title.

(b) A person commits a Class E felony who:

(1) Without probable cause to believe a person has a developmental or intellectual disability, executes a petition, complaint, or certificate of need under this title, or otherwise secures or attempts to secure the apprehension, detention, hospitalization, restraint, or commitment of the person; or

(2) Knowingly makes any false certificate of need or complaint under this title.

(c) The commissioner or commissioner's designee acting pursuant to this title is entitled to rely in good faith upon the representations made for commitment by any person authorized to provide certificates under this title or any court.

(d) All persons acting in good faith, reasonably and without negligence in connection with the preparation of petitions, complaints, certificates of need, or other documents or the apprehension, detention, discharge, examination, transportation, or treatment of a person under this title are free from all liability, civil or criminal, by reason of the acts.

**52-3-602. False information; furnishing; penalty.**

It is a Class C misdemeanor for any person to knowingly furnish false information for the purpose of securing the commitment of any person to a facility for persons with an intellectual or developmental disability.

**52-3-603. Sexual relations with persons supported; penalty.**

Any employee of a service provider who has sexual relations with a person supported, other than the employee's spouse, or commits sexual battery on a person supported, knowing or having reason to believe that the person is a person supported of the service provider, is subject to discharge for that conduct.

**52-3-604. Escape or violence; aiding or abetting; gifts.**

(a) A person commits a Class E felony who:

(1) Counsels, causes, influences, aids, or assists a person supported with an intellectual or developmental disability to leave a facility without valid legal authority after the person supported was committed under court order;

(2) Harbors or conceals a person supported with an intellectual or developmental disability who has left a facility without valid legal authority;

(3) Incites a person supported with an intellectual or developmental disability, while the person supported is committed to a facility, to hurt or injure another person anywhere; or

(4) Gives or sells to a person supported with an intellectual or developmental disability committed to a facility designated by the commissioner, whether on the premises of the facility or elsewhere, knowing the person to be a person with an intellectual or developmental disability, any firearms, intoxicating drinks, illegal drugs, or any other harmful articles.

(b) An employee or official of a facility who receives from a person with an intellectual or developmental disability anything of value as a gift or for a consideration commits a Class C misdemeanor.

(c) A person, who aids or abets in the commission of any of the foregoing offenses or aids or abets in a prohibited attempt, is guilty as if the person were a principal and must be punished as a principal.

#### **Chapter 4 – Rights of Residential Persons Supported**

##### **52-4-101. Visitors and communication.**

(a) A person with an intellectual or developmental disability is entitled to:

(1) Receive visitors; and

(2) Communicate, orally or by sending and receiving uncensored mail, with the person supported's family, attorney, personal physician, and minister, and the courts.

(b) All other incoming mail or parcels may be read or opened before being delivered to a person supported, if a department-operated facility believes the action is

necessary for the physical or mental health of the person supported who is the intended recipient. Mail or other communication that is not delivered to the person supported for whom it is intended must be returned immediately to the sender.

(c) A facility or entity may make reasonable rules regarding visitors, visiting hours, and the use of communication resources.

**52-4-102. Unauthorized leave.**

If a person admitted under court order leaves a facility without authority, then the facility must immediately notify the court regardless of the length of the person's absence. If the person is taken into custody, then the person may be returned to the facility upon an order by the court. After thirty (30) days' absence, the person may be dropped from the facility's records. A return after thirty (30) days' absence is a new admission. A person's absence beyond thirty (30) days does not limit the power of the court to order the person's return to a facility under this section.

**52-4-103. Private facility; commitment; certificate.**

(a) If a person is proposed to be committed to a private facility under this title, at least one (1) of the required certificates of need must be from a qualified health professional who is not an employee of the private facility.

(b) For purposes of this section, employment as a faculty member by a school of medicine at a university or college associated with a hospital does not constitute employment at a private facility.

**52-4-104. Certificate of need; content; penalty.**

(a) A certificate of need for commitment for care and treatment of a person with an intellectual or developmental disability is not valid for any purpose unless it is based on personal observation and examination of the person made by the qualified health professional not more than three (3) days prior to the making of the certificate. The



certificate must state the facts and reasoning on which the opinions and conclusions are based.

(b) The execution of a certificate concerning the mental condition of a person by a qualified health professional who has not personally observed and examined the person is a Class E felony.

**52-4-105. Death of patient; notice; disposal of property.**

(a)

(1) Upon the death of a person committed to a facility under chapter 5 of this title, the facility must mail written notice of death to the court that entered the order resulting in the commitment; mail written notice of death to the next of kin, if known; and notify the office of the medical examiner having jurisdiction to investigate the death.

(2) A facility that is required by this subsection (a) to make a notice to the medical examiner having jurisdiction to investigate a death shall make such notice as soon as reasonably practicable, but in no event more than twelve (12) hours after the discovery of the death. A facility shall mail the other notices required by this subsection (a) within ten (10) days of the discovery of the death.

(b) Notice of a death must also be given promptly to the person's legal guardian, legal custodian, or conservator, as applicable. The administrator, executor, or personal representative of the deceased person, or, if there is none, one (1) or more of the heirs at law or next of kin, must be notified by registered mail of the deceased's personal property at the facility at the time of death. Notice to an administrator, executor, or personal representative must be directed to the probate court of the county in which that person is qualified to administer the estate of the deceased.

(c) Property left by the deceased person in the facility must be disposed of pursuant to subsection (e) if, after diligent search and inquiry, none of the persons required to be notified can be found and notified or if the persons notified do not open the estate or otherwise proceed to dispose of the estate in a lawful manner.

(d) If a person is discharged and leaves personal property in the facility, then the facility must promptly notify the person by registered mail addressed to the person's last known address that the property has been left and is subject to sale under subsection (e).

(e) The facility shall keep the deceased or discharged person's personal property for six (6) months if it is not claimed. The facility shall then sell the property, with the approval of the commissioner, and deposit the proceeds in a fund, maintained under the supervision of the department, for the benefit of needy persons supported.

**52-4-106. Appointment of conservator for a person supported.**

If a facility in which a person supported is committed or admitted is of the opinion that the person supported is unable to exercise any of the rights afforded by this chapter and chapter 3 of this title, then the facility must notify immediately the person supported and the person supported's attorney, parent, legal custodian, spouse, or other nearest known adult relative of the fact, as applicable, and the department may file for the appointment of a conservator and must notify those persons as to whether the department intends to do so.

**Chapter 5 – Intellectual and Developmental Disability Services**

**Part 1 – Service System**

**52-5-101. Applicability of title.**

Services to persons with a developmental disability are governed generally by this title.

**52-5-102. Eligibility dates for direct service.**

Persons with a developmental disability based on conditions other than an intellectual disability are eligible for direct service under this part on March 1, 2002. Persons with an intellectual disability are eligible for direct service under this part on March 1, 2001.

**52-5-103. Ineligibility for service or support.**

If a person has a developmental disability solely on the basis of having a mental illness or serious emotional disturbance, as those terms are defined in title 33, then the person is not eligible to have services or supports provided for the developmental disability primarily under this chapter.

**52-5-104. Developmental disability after twenty-two (22) years of age.**

Within the limits of available services, the department may serve persons who have conditions that would constitute a developmental disability, except when the disability occurred after twenty-two (22) years of age.

**52-5-105. Determination of eligibility.**

A person is eligible for service and support under this chapter on the basis of an intellectual or developmental disability only if the assessment that the person has an intellectual or developmental disability takes into account:

- (1) Cultural and linguistic diversity, as well as differences in communication and behavioral factors;
- (2) Whether the person's limitations in adaptive skills occur in the context of community environments typical of the person's age peers and is indexed to the person's individualized needs for supports;
- (3) Specific adaptive limitations often coexist with strengths in other adaptive skills or other personal capabilities; and

(4) With appropriate supports over a sustained period, the life functioning of a person with an intellectual or developmental disability will generally improve.

**52-5-106. Application for service and support.**

A person with an intellectual or developmental disability, a parent or legal guardian of a child with an intellectual or developmental disability, a conservator of a person with an intellectual or developmental disability, the department of children's services on behalf of a person in its legal custody who has an intellectual or developmental disability, or the department of human services on behalf of a person in its legal custody who has an intellectual or developmental disability, referred to as the applicant, may apply to the department through its designated entities for services and supports that they provide directly or by contract. The designated entity shall inform the applicant about all options for services and supports. When services and supports appropriate for the applicant are not available, the designated entity must notify the applicant in writing of the basis on which the decision was made, possible service options, the prospects for obtaining service, and the time estimated before the service may be available. The applicant must be notified periodically and in a timely manner of the status of the application. Based upon additional information, change in status may be determined by the designated entity.

**52-5-107. Medical assistance programs; state-funded programs; eligibility criteria; establishment.**

(a) Notwithstanding any state law to the contrary, eligibility criteria for medical assistance programs and services pursuant to title 71, chapter 5, for persons with an intellectual or developmental disability must be established by the division of TennCare, and set forth in the medicaid state plan and federal waivers, or in rules promulgated by

the division of TennCare, and are subject to the availability of funding in each year's general appropriations act.

(b) Notwithstanding any state law to the contrary, eligibility criteria for state-funded programs and services for persons with an intellectual or developmental disability must be established by the department and subject to the availability of funding in each year's general appropriations act.

**52-5-108. Persons with an intellectual or developmental disability, on referral list for services; age of caregiver; program enrollment.**

(a) An eligible person with an intellectual disability who is on the referral list for services and whose older custodial parent, or custodial caregiver, attains seventy-five (75) years of age must be enrolled in employment and community first choices Group 5 or a similarly capped home- and community-based services program within six (6) months of the person's parent or caregiver attaining that age.

(b) An eligible person with a developmental disability other than an intellectual disability who is on the referral list for services and whose older custodial parent, or custodial caregiver, attains eighty (80) years of age must be enrolled in employment and community first choices Group 5 or a similarly capped home- and community-based services program within six (6) months of the person's parent or caregiver attaining that age.

**Part 2 – Family Support**

**52-5-201. Part definitions.**

As used in this part, unless the context otherwise requires:

(1) "Family" means a unit that consists of either a person with a severe or developmental disability and the parent, relative, or other caregiver who resides

in the same household or a person with a severe or developmental disability who lives alone without such support;

(2) "Family support" means goods and services needed by families to care for their family members with a severe or developmental disability and to enjoy a quality of life comparable to other community members;

(3) "Family support program" means a coordinated system of family support services administered by the department directly or through contracts;

(4) "Severe disability" means a disability that is functionally similar to a developmental disability but occurred after the person was twenty-two (22) years of age; and

(5) "State family support council" and "council" mean the council established by the department under § 52-5-208 to carry out the responsibilities specified in this part.

**52-5-202. Policy; principles for program development.**

(a) The policy of the state is that persons with severe or developmental disabilities and their families be afforded supports that emphasize community living and enable them to enjoy typical lifestyles.

(b) Programs to support families must be based on the following principles:

(1) Families and individuals with severe or developmental disabilities are best able to determine their own needs and should be empowered to make decisions concerning necessary, desirable, and appropriate services and supports;

(2) Families should receive the support necessary to care for their relatives at home;

(3) Family support is needed throughout the life span of the person who has a severe or developmental disability;

(4) Family support services should be sensitive to the unique needs, strengths, and values of the person and the family, and should be responsive to the needs of the entire family;

(5) Family support should build on existing social networks and natural sources of support in communities;

(6) Family support services should be provided in a manner that develops comprehensive, responsive, and flexible support to families as their needs evolve over time;

(7) Family support services should be provided equitably across the state and be coordinated across the numerous agencies likely to provide resources and services and support to families; and

(8) Family, individual, and community-based services and supports should be based on sharing ordinary places, developing meaningful relationships, learning things that are useful, and making choices, as well as increasing the status and enhancing the reputation of persons served.

**52-5-203. Program focus.**

The primary focus of the family support program is supporting:

(1) Families with children with severe or developmental disabilities, school age and younger;

(2) Adults with severe or developmental disabilities who choose to live with their families; and

(3) Adults with severe or developmental disabilities who are residing in the community in an unsupported setting and not in a state or federally funded program.

**52-5-204. Contracted agency; powers and duties.**

The contracted agency is responsible for assisting each family for whom services and support will be provided in assessing each family's needs and shall prepare a written plan with the person and family. The needs and preferences of the family and individual are the basis for determining what goods and services are made available within the resources available.

**52-5-205. Available services.**

The family support services included in this program include, but are not limited to, family support services coordination, information, referral, advocacy, educational materials, emergency and outreach services, and other individual and family-centered assistance services, such as respite care; personal assistance services; child care; homemaker services; minor home modifications and vehicular modifications; specialized equipment and maintenance and repair; specialized nutrition and clothing and supplies; transportation services; health-related costs not otherwise covered; licensed nursing and nurses aid services; and family counseling, training, and support groups.

**52-5-206. Service coordination.**

As a part of the family support program, the contracted agency shall provide service coordination for each family that includes information, coordination, and other assistance as needed by the family.

**52-5-207. Assistance to families of adults with disabilities.**

The family support program shall assist families of adults with a severe or developmental disability in planning and obtaining community living arrangements,



employment services, and other resources needed to achieve, to the greatest extent possible, independence, productivity, and integration into the community.

**52-5-208. State family support council.**

The commissioner shall appoint a state family support council composed of fifteen (15) members, of whom at least a majority must be persons with severe or developmental disabilities or their parents or primary caregivers. The council must have one (1) representative from each development district of the state, one (1) representative of the council on developmental disabilities, one (1) representative of the Tennessee disability coalition, one (1) representative of Tennessee community organizations, and one (1) representative of a center for independent living. The commissioner shall appoint two (2) at-large members for the department.

**52-5-209. Policy and procedure adoption; input from the state family support council.**

(a) The department shall adopt policies and procedures regarding the development of appropriations requested for family support.

(b) Unless the commissioner determines an exigent circumstance exists, the department shall seek input from the state family support council prior to adopting policies and procedures regarding:

- (1) Program specifications, including:
  - (A) Criteria for program services;
  - (B) Methodology for allocating resources to families within the funds available;
  - (C) Eligibility determination and admissions; and
  - (D) Limits on benefits;

(2) Coordination of the family support program and the use of its funds equitably throughout the state, with other publicly funded programs, including medicaid;

(3) Resolution of grievances filed by families pertaining to actions of the family support program, and an appeals process;

(4) Quality assurance; and

(5) Annual evaluation of services, including consumer satisfaction.

**52-5-210. Council; meetings; powers and duties; traveling expenses.**

(a) The state family support council shall meet at least quarterly. The council shall participate in the development of program policies and procedures and perform other duties as are necessary for statewide implementation of the family support program. All reimbursement for travel expenses must be in conformity with the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(b)

(1) Any council member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year must be removed as a member of the council.

(2) The chair of the council shall promptly notify, or cause to be notified, the appointing authority of any member who fails to satisfy the attendance requirement as prescribed in subdivision (b)(1).

**52-5-211. Program administration; funding.**

The department shall administer the family support services program and shall establish annual benefit levels per family served. Implementation of this part and the program and annual benefit levels, or any portion of the program or benefits levels, are

contingent upon annual line-item appropriation of sufficient funding for the programs and benefits.

**52-5-212. Persons with developmental disabilities other than intellectual disabilities; services needed; information provided to the department.**

In accordance with policies and procedures developed and adopted by the state family support council and the department, information gathered through the family support program on persons with a developmental disability, other than an intellectual disability, for whom services are needed must be provided to the department on at least a quarterly basis.

**Part 3 – Residential Admission**

**52-5-301. Definitions; admission review committee.**

(a) As used in this part, unless the context otherwise requires:

(1) "Emergency respite admission" means an admission for up to forty-five (45) days authorized due to an emergency situation that results in the temporary inability of the person who has the care, custody, and control of a person with an intellectual or developmental disability to provide proper care, custody, and control;

(2) "Regular voluntary admission" means an admission authorized by a statewide admission review committee for a specified period of time;

(3) "Respite admission" means an admission for up to forty-five (45) days authorized solely for the purpose of providing a respite for the person having responsibility for the care, custody, and control of a person with an intellectual or developmental disability; and

(4) "Short-term training admission" means an admission authorized by a written agreement between the department and an applicant that the center

provide services and supports for a person with an intellectual or developmental disability to learn how to perform a certain function or functions for a specified period of time, not exceeding six (6) months, at the end of which the center shall discharge the person with an intellectual or developmental disability to the care, custody, and control of the applicant.

(b) Under department rules and pursuant to the direction of the statewide admission review committee, the department, subject to the availability of suitable accommodations and the absence of a less restrictive alternative, may admit for diagnosis, care, training, and treatment:

(1) A person with an intellectual or developmental disability who applies for voluntary admission and does not lack capacity to apply under § 52-3-210;

(2) A child with an intellectual or developmental disability whose parent or legal guardian applies for voluntary admission; or

(3) An adult whose conservator applies for voluntary admission.

(c) The department may adopt rules to implement the statewide admissions review committee and to specify its duties and membership.

**52-5-302. Discharge.**

The facility may discharge a person admitted under § 52-5-301 at any time when it is in the person's best interest.

**52-5-303. Review of admission.**

(a)

(1) The department may review the appropriateness of admission to a privately or publicly funded residential facility for persons with an intellectual or developmental disability. The department shall investigate to assess the validity of an allegation of:

- (A) Deprivation of liberty without consent;
- (B) Abuse, neglect, or exploitation;
- (C) Placement that is inappropriate to meet the needs of a person supported;
- (D) Violation of a fiduciary relationship; or
- (E) Any other violation of a right.

(2) If the department finds probable cause to believe the allegation after an investigation by inspection of records and interviews with personnel, persons supported, and their families and there is no suitable remedy under chapter 2, part 4 of this title, then the department may require a plan of compliance or may require independent review of admissions under this section for a period of time set by the department.

(b) Within five (5) days after a recommendation is made that a person with an intellectual or developmental disability be admitted to a residential facility for which the department requires independent review under subsection (a), an independent review by the department must be conducted to determine the appropriateness of the recommended residential service for the person on the basis of the interests and welfare of the person. The result of the review must not be influenced by any benefits flowing from the admission solely to the family, parents, guardian, or conservator of the person. The result of the review must be written and state the reasons for the decision.

(c) The decision made under subsection (b) on publicly funded placements may be appealed to a designee of the commissioner by filing the appeal within seven (7) days after receipt of the decision. The designee of the commissioner shall review and decide the appeal within fourteen (14) days after receipt of the appeal. The only appeal of the decision made under subsection (b) on privately funded placements is a request

for reconsideration by the reviewer filed within fourteen (14) days after receipt of the decision, and the decision is final administratively. If granted, reconsideration by the reviewer must occur within five (5) working days after receipt of the request.

(d) The department shall designate persons from among its employees or by contract to serve as independent reviewers. A person designated to serve as the independent reviewer for a case must have no conflict of interest with any party to the case and be trained with respect to the laws, rules, and information required to make competent decisions as an independent reviewer.

#### **Part 4 – Forensic Services for Persons with an Intellectual Disability**

##### **52-5-401. Program establishment.**

The commissioner may establish programs, including community-based programs, for training, habilitating, or rehabilitating persons with an intellectual disability under this part.

##### **52-5-402. Determination of substantial likelihood of serious harm.**

A person poses a "substantial likelihood of serious harm" for purposes of this title only if:

(1) The person:

(A) Has threatened or attempted suicide or to inflict serious bodily harm on the person;

(B) Has threatened or attempted homicide or other violent behavior;

(C) Has placed others in reasonable fear of violent behavior and serious physical harm to them; or

(D) Is unable to avoid severe impairment or injury from specific risks; and

(2) There is a substantial likelihood that the harm will occur unless the person is placed under involuntary treatment.

**52-5-403. Commitment procedure.**

(a) The district attorney general may file a complaint to require involuntary care and treatment of the defendant under § 52-5-404 only if:

(1) The circuit, criminal, or general sessions court determines on the basis of an evaluation under § 52-6-102 that a criminal defendant is incompetent to stand trial due to an intellectual disability; or

(2) The circuit or criminal court enters a verdict of not guilty by reason of insanity on a capital offense against a defendant with an intellectual disability.

(b) Only the juvenile court that has jurisdiction of the child, or the circuit or criminal court before which the defendant's criminal case is pending or that would hear the case if the defendant were bound over to the grand jury, has jurisdiction to hear a complaint.

**52-5-404. Involuntary commitment.**

A person may be judicially committed to involuntary care and treatment in the custody of the commissioner in proceedings conducted in conformity with chapter 3, part 5 of this title only if:

(1) The person has an intellectual disability;

(2) The person poses a substantial likelihood of serious harm under § 52-5-402 because of the intellectual disability;

(3) The person needs care, training, or treatment because of the intellectual disability;

(4) All available less drastic alternatives to judicial commitment are unsuitable to meet the needs of the person; and

(5) The district attorney general files a complaint to require involuntary care and treatment under § 52-5-403.

**52-5-405. Certificates of need; factual foundation.**

A defendant must not be judicially committed under § 52-5-404 unless licensed physicians or licensed psychologists, designated as a health service provider by the commissioner, file in the commitment proceeding two (2) certificates of need for training and treatment, certifying that the defendant satisfies the requirements in § 52-5-404(1)-(4) and showing the factual foundation for the conclusions on each item.

**52-5-406. Custody of defendant by the commissioner.**

A judicially committed defendant does not come into the custody of the commissioner until the commissioner determines that the state has an available suitable accommodation and designates a licensed facility to admit the defendant.

**52-5-407. Sentencing credit for time in the custody of the commissioner.**

Whenever a person receives evaluation, training, or treatment services under this part or part 5 of this chapter in connection with a criminal charge or conviction, wherever incarcerated, the person must receive credit toward the satisfaction of the sentence for the time spent in the custody of the commissioner.

**52-5-408. Order of court; transfers.**

Without regard to its wording, any court order of commitment under this part is considered in law as a transfer of the person to the custody of the commissioner.

**52-5-409. Evaluations; reports; discharge or transfer.**

(a) The commissioner shall cause each person judicially committed under § 52-5-404 or transferred under § 52-3-301, to be evaluated as often as necessary but not less often than every six (6) months.



(b) The commissioner or the commissioner's designee shall report the details of the findings of the evaluation performed under subsection (a) regarding persons with an intellectual disability judicially committed under § 52-5-404. The report must include an assessment of the person's present condition and prospects for restoration to competence to stand trial, and a copy must be sent to the clerk of the court that ordered commitment; the person; the person's attorney, parents, spouse, legal guardian, or conservator, if any; and the district attorney general.

(c) If, upon completion of the evaluation under subsection (a), the commissioner or the commissioner's designee determines that a person with an intellectual disability transferred under § 52-3-301, no longer meets the standards under which the person was admitted, then the person must be immediately discharged or transferred to the facility from which the person was transferred or to another appropriate facility of the department under § 52-3-301.

**52-5-410. Release; custody of the court.**

(a) If the commissioner or the commissioner's designee determines that any person judicially committed under § 52-5-404, no longer meets the standards under which the person was committed, then the decision maker must immediately order the person's release and cause the person to be discharged, except as provided in subsection (b) or § 52-5-411.

(b) If the commissioner or the commissioner's designee determines that a person who was judicially committed under § 52-5-404 and who is charged with a crime for which the person is subject to being tried is restored to competence to stand trial, then the decision maker must give notice of that fact to the clerk of the court that ordered the person's commitment and deliver the person to the custody of the sheriff of the

county from which the person was admitted, who must transport the person back to the custody of the court.

**52-5-411. Capital offense; release from involuntary commitment; notice; hearing; appeal.**

(a) If the department determines that a person, who has been judicially committed under § 52-5-404 by a criminal court in connection with a capital offense or with a verdict of not guilty by reason of insanity on a capital offense, no longer meets the commitment standards under which the person was committed, then the department must follow the procedures set out in this section to effect the person's release from involuntary commitment.

(b) If the department determines that the person no longer meets the commitment criteria under which the person was committed, then the department must notify the committing court of this fact and the reasons. The determination by the department creates a rebuttable presumption of its correctness. The court may, within ten (10) business days, holidays excluded, of receipt of the notice, set a hearing to be held within twenty-one (21) business days, holidays excluded, of receipt of the department's notice on whether the person continues to meet the commitment criteria under which the person was committed. The court shall send notice of the hearing to the person; the commissioner; the person's counsel; the person's next of kin, if known; and the district attorney general.

(c) If the court does not set a hearing and notify the department within fifteen (15) business days, holidays excluded, of its receipt of the facility's notice, then the facility must release the person from involuntary commitment.

(d) The hearing to determine whether the person continues to meet the commitment criteria under which the person was committed must be held within twenty-

one (21) business days, holidays excluded, of the court's receipt of notice from the department. The person shall attend the hearing unless the person's presence is waived in writing by counsel before the hearing. If the person does not have counsel, then the court must appoint counsel to represent the person.

(e) Following the hearing, if the court finds by clear, unequivocal, and convincing evidence that the person meets the standards of § 52-5-404, then the court must order the person's return to the intellectual disability facility under the authority of the person's commitment. Otherwise, the court shall order the person's release from commitment.

(f) Either party may appeal a final adjudication under this section to the court of criminal appeals.

#### **Part 5 – Mandatory Community-Based Services**

##### **52-5-501. Felony defendant incompetent to stand trial.**

The court with criminal jurisdiction may order a person to participate in community-based services under a plan approved and developed by the department to attain and maintain competence to stand trial and reduce the risk of becoming committable only if:

(1) The court finds on proof by clear and convincing evidence that the adult with an intellectual disability is:

- (A) Charged with a felony;
- (B) Incompetent to stand trial;
- (C) Not committable under § 52-5-404; and
- (D) At risk of becoming committable; and

(2) The department certifies to the court that there are funds available within the limits of the department's line-item appropriation for services under this section for service to the person.

**52-5-502. Felony defendant acquitted by reason of insanity.**

The court with criminal jurisdiction may order a person to participate in community-based services under a plan approved and developed by the department to avoid deterioration to the point where the person would be committable only if:

- (1) The court finds on proof by clear and convincing evidence that a person with an intellectual disability:
  - (A) Is charged with a felony;
  - (B) Is acquitted of the charge on a verdict of not guilty by reason of insanity because of an intellectual disability at the time of the commission of the crime;
  - (C) Is not committable under § 52-5-404;
  - (D) Requires training or treatment because of the intellectual disability; and
  - (E) Is likely to meet the standards of § 52-5-404 without the training or treatment; and
- (2) The department certifies to the court that there are funds available within the limits of the department's line-item appropriation for services under this section for service to the person.

**52-5-503. Capital defendant.**

The court with criminal jurisdiction may order the person to participate in community-based services under a plan approved and developed by the department to prevent the person's deterioration to the point where the person would be committable only if:

- (1) The court finds on proof by clear and convincing evidence that a person with an intellectual disability:

(A) Has been committed under § 52-5-404 in connection with a capital offense or with a verdict of not guilty by reason of insanity on a capital offense;

(B) No longer meets the standards under which the person was committed; and

(C) Has a condition that requires training or treatment without which the person would again meet commitment standards; and

(2) The department certifies to the court that there are funds available within the limits of the department's line-item appropriation for services under this section for service to the person.

**52-5-504. Services plan development.**

If upon completion of an evaluation of a person under § 52-5-404 or § 52-5-409, the department determines that the person meets the standards in § 52-5-501, § 52-5-502, or § 52-5-503, and if the department certifies to the court that there are funds available within the limits of the department's line-item appropriation for services, then the department must attempt to develop a service plan for the person for the purpose stated. The plan must be for a maximum of two (2) years, and no person shall participate in the plan for more than two (2) years.

**52-5-505. Hearing to contest services plan.**

If a defendant contests a plan proposed by the department under § 52-5-501, § 52-5-502, or § 52-5-503, then the court must hold a hearing within seven (7) days of receipt of the request to determine whether the plan is programmatically appropriate and legally permissible. The court shall either approve the plan or approve the plan as modified by the department to correct deficiencies found by the court.

**52-5-506. Assessment reports.**

A service provider with a person supported under § 52-5-501, § 52-5-502, or § 52-5-503 shall assess the person supported's needs at least every six (6) months and report to the court every six (6) months on the person's progress toward the goal of the plan and on the person's use of the service. A service provider may request the court to release the person supported from the plan at any time.

**52-5-507. Termination of services plan.**

If, after two (2) years of intensive training on a department-approved competence to stand trial plan under § 52-5-501, the defendant has not made substantial progress to attain competence to stand trial, then the service provider must assess the defendant's needs and may terminate the service plan and recommend to the court that the defendant be referred to other mental health or intellectual disability services as deemed appropriate. The service provider shall report its conclusion to the court before terminating services.

**Part 6 – Statewide Planning and Policy Council**

**52-5-601. Creation; members; appointment and removal; terms.**

(a) There is created the statewide planning and policy council for the department to assist in planning a comprehensive array of high-quality prevention, early intervention, treatment, and habilitation services and supports and to advise the department on policy, budget requests, and developing and evaluating services and supports.

(b)

(1) The statewide planning and policy council must be composed of not less than eleven (11) members, not including ex officio members. The governor shall appoint the chair of the council. The speaker of the senate and the speaker of the house of representatives shall each appoint one (1) legislator as a member of the council. The commissioner shall serve, ex officio, as secretary to the

council and, if the chair is not present at a meeting, shall designate a member to serve as chair for the meeting. The governor is an ex officio member of the council and may appoint representatives of state agencies as ex officio members of the council. The governor shall appoint one (1) at-large representative.

(2) The commissioner shall appoint five (5) members, two (2) of whom must be persons supported or family members of persons supported, one (1) must be a representative for children, one (1) must be an intellectual and developmental disability service provider, and one (1) must represent others affected by intellectual and developmental disability issues. Additionally, the commissioner shall appoint one (1) representative for older persons supported and at least one (1) at-large representative.

(3) At least a majority of the council's membership must consist of current or former persons supported and family members of persons supported.

(c) The members of the statewide planning and policy council receive no compensation.

(d) The statewide planning and policy council shall meet quarterly at a place designated by the chair and may meet more often upon the call of the chair or a majority of the members.

(e) Terms on the council are three (3) years, except that the chair and members appointed by the speakers have terms of two (2) years.

(f) The appointing authority may remove a member for failure to attend at least one-half ( $\frac{1}{2}$ ) of the scheduled meetings in any one-year period or for other good cause.

**52-5-602. Duties; reports.**

(a) The statewide planning and policy council shall advise the commissioner as to plans and policies to be followed in the service systems and the operation of the

department programs and facilities, recommend to the general assembly legislation and appropriations for the programs and facilities, advocate for and publicize the recommendations, and publicize generally the situation and needs of persons with an intellectual or developmental disability and their families.

(b) The statewide planning and policy council shall especially attend to:

(1) Identification of common areas of concern to be addressed by the service areas;

(2) The needs of persons supported who are children or elderly and of persons supported with combinations of intellectual or developmental disabilities and other conditions;

(3) Evaluation of needs assessment, service, and budget proposals;

(4) Reconciliation of policy issues among the service areas; and

(5) Annual review of the adequacy of this title to support the service systems.

(c) The statewide planning and policy council, in conjunction with the commissioner, shall report annually to the governor on the service systems, including programs, services, supports, and facilities of the department, and may furnish copies of the reports to the general assembly with recommendations for legislation. The statewide planning and policy council may make other reports to the governor and to the general assembly as the council deems necessary. The commissioner shall make the reports available to the public, including on the internet and by other appropriate methods.

### **Chapter 6 – Secure Units and Forensic Services**

#### **52-6-101. Creation.**



The commissioner may operate in the state hospitals' secure facilities, known as forensic services units, necessary for persons with an intellectual or developmental disability who are eligible for admission to the units under this title.

**52-6-102. Outpatient evaluation; court-ordered hospitalization; reports.**

(a) If a defendant with an intellectual or developmental disability who is charged with a criminal offense is believed to be incompetent to stand trial, or there is a question about the defendant's mental capacity at the time of the commission of the crime, then the criminal, circuit, or general sessions court judge may, upon the judge's own motion or upon petition by the district attorney general or by the attorney for the defendant and after hearing, order the defendant to be evaluated on an outpatient basis. The evaluation must be done by an evaluator designated by the commissioner to serve the court. If the evaluator concludes that further evaluation and treatment are needed, only then may the court order the defendant admitted, and, if in a department facility, in the custody of the commissioner for not more than thirty (30) days for further evaluation and treatment for competence to stand trial subject to the availability of suitable accommodations.

(b) At any stage of a felony criminal proceeding, including a pretrial hearing, trial, sentencing, or post-conviction proceeding, the state may move or petition the court to authorize the district attorney general to designate a qualified expert to examine the defendant if the defendant gives notice that the defendant intends to offer testimony about the defendant's mental condition, whether in support of a defense of insanity or for any other purpose. The court may authorize the district attorney general to designate a qualified expert, who is willing to be appointed, to examine the defendant, if:

- (1) An evaluator under subsection (a) notifies the court in a pretrial proceeding that the type or extent of assessment required exceeds the expertise

or resources available to the evaluator or exceeds the scope of analysis of the defendant's competence to stand trial; or

(2) In any other type of felony criminal proceeding, the court determines that examination of the defendant by a qualified expert for the state is necessary to adjudicate fairly the matter before it.

(c) The amount and payment of expert fees must be determined and paid by the district attorneys general conference.

(d)

(1) Except as provided in subdivision (d)(2), during the post-conviction stage of a criminal proceeding, if it is believed that a defendant is incompetent to assist counsel in preparation for, or otherwise participate in, the post-conviction proceeding, then the court may, upon its own motion, order that the defendant be evaluated on either an outpatient or inpatient basis, as may be appropriate. If the defendant is indigent, then the amount and payment of the costs for the evaluation must be determined and paid for by the administrative office of the courts. If the defendant is not indigent, then the cost of the evaluation must be charged as court costs. If the evaluation cannot be done on an outpatient basis and if it is necessary to admit the defendant in a department facility, then admission must not be for more than thirty (30) days and is subject to available suitable accommodations. Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent must determine that the receiving department facility has available suitable accommodations. Any costs incurred by the administrative office of the courts must be absorbed within the current appropriation for the indigent defense fund.

(2) In a post-conviction proceeding in a capital case, if there is a question on the defendant's mental condition at the time of the commission of the crime when there has been no such prior evaluation or a question as to whether the defendant is intellectually disabled, then the court may, upon its own motion or upon petition by the district attorney general or by the attorney for the defendant, and, if the matter is contested, after a hearing, order that the defendant be evaluated on an outpatient basis. If the outpatient evaluator concludes that an inpatient evaluation is necessary, only then may the court order the defendant to be admitted for not more than thirty (30) days.

(e)

(1) Prior to transporting a defendant for such evaluation and treatment in a department facility, the sheriff or other transportation agent must determine that the receiving department facility has available suitable accommodations.

(2) If a defendant is found to be incompetent to stand trial, then any misdemeanor charges pending at the time of the incompetency determination must be retired no later than eleven (11) months and twenty-nine (29) days after the date of arrest when the misdemeanor charge or charges have not otherwise been disposed of, except that misdemeanor charges must not be retired pursuant to this subsection (e) if the defendant is restored to competency prior to the date on which the misdemeanor charge or charges would have otherwise been retired under this subsection (e).

**52-6-103. Cost of evaluation and treatment; inpatient evaluation deadline.**

(a) The cost of evaluation and treatment under this section and § 52-6-102, if the defendant is charged with a misdemeanor, must be a charge upon the funds of the county. If the court finds the defendant financially able to pay all or part of the costs and

expenses for the evaluation and treatment, then the court may order the defendant to pay all or part of the costs and expenses. Payment must be made to the clerk of the general sessions court for remittance to the person, agency, or facility to whom compensation is due, or, if the costs and expenses have been paid by the county, to the appropriate office of the county.

(b) Costs of the care or treatment of any defendant ordered by the court and who is charged with a misdemeanor must be paid by the state only when specifically authorized by law.

## **Chapter 7 – Special Provisions for Children**

### **Part 1 – Services to Children Generally**

#### **52-7-101. Application of title; fundamental principles.**

(a) Services for children who have an intellectual or developmental disability are governed by this title. The general assembly finds that supporting families in their role as primary caregivers for their children is more humane, efficient, and cost effective than placing children in state custody to obtain necessary services or otherwise placing children in settings outside their homes.

(b) For children covered by this title, the following service principles are fundamental to carrying out the responsibilities of service providers and advocates:

(1) Families and children are most responsible for determining their needs and should be included appropriately in planning and providing service and support;

(2) Families should receive the support they need to care for their children at home;

(3) Service providers and advocates should enable families and children to make good decisions concerning necessary, desirable, and appropriate services;

(4) Service providers should coordinate services among agencies likely to provide services and supports to children and families;

(5) Service providers and advocates should participate in development of interagency agreements under § 52-1-106 to assure consideration of the needs and problems of children and families; and

(6) Service providers should achieve smooth transitions in services and supports as children grow through various stages of development and become vested in making decisions for themselves, including the transition into adulthood.

**52-7-102. Departmental responsibilities.**

The department shall promote effective advocacy for services and supports for all children with an intellectual or developmental disability. The department's responsibilities for children include, but are not limited to:

(1) Promoting collaboration among caregivers and service providers and equitable involvement of caregivers in service plan development;

(2) Determining eligibility;

(3) Providing basic service standards;

(4) Facilitating the interdepartmental planning process for children through the statewide and regional planning and policy councils;

(5) Initiating meetings or other processes to develop local interagency agreements as needs and problems are identified by service providers, advocates, or families;

(6) Assisting children and their families to gain access to the system of services and supports;

(7) Defining and listing an array of services and supports; and

(8) Assisting youth who have been in the public system of care with transition to adult services.

**52-7-103. Priority population; funding.**

Children with an intellectual or developmental disability are a priority population for the department's intellectual and developmental disability services and supports. The department shall set the array of services and supports for these priority populations annually in its plan. The state shall fund, and the department shall maintain the array of services and supports for persons in this priority population. Consistent with applicable eligibility requirements, the state may provide the funding for the services through the medicaid program or any waiver granted under the medicaid program, specifically including TennCare, other public funds, or private funds.

**52-7-104. Emancipated children; parental rights and responsibilities.**

Children who are emancipated by marriage, court order, or in any other way recognized by law in the state have all the rights and responsibilities of adults under this title, except to the extent those rights are restricted by court order. The parent of an emancipated child must be treated as the parent of an adult under the provisions of this title that give parents rights or responsibilities with respect to the child.

**52-7-105. Plans for transition to adult services.**

Intellectual and developmental disability service providers shall prepare interagency plans to assure that persons seventeen (17) years of age in state custody who will continue to need services and supports in adulthood can make a smooth transition to adult services. The plan must take into account the requirements in other

state and federal laws with respect to service. If necessary to avoid delays in service during the transition into adult services, plans must be prepared before the persons become seventeen (17) years of age.

## **Chapter 8 – Tennessee Commission on Aging and Disability**

### **Part 1 – The Commission**

#### **52-8-101. Chapter definitions.**

As used in this chapter, unless the context otherwise requires:

(1) "Area agency on aging and disability" means any agency that has been designated by the department to plan for and provide services to older persons and adults with disabilities within a defined geographic area;

(2) "Commission" means the commission on aging and disability created under § 52-8-102;

(3) "Home- and community-based long-term care" means supportive services, including, but not limited to, personal assistance, homemaker and chore services, adult day services, assistive technology, home-delivered meals, assisted transportation and mobility services, respite and hospice care, and rehabilitative care, that are provided to older persons and adults with disabilities to help them to remain independent, avoid inappropriate institutionalization, and maintain physical, social, and spiritual independence in the least restrictive environment;

(4) "Older Americans Act" means the Older Americans Act of 1965, as amended (42 U.S.C. § 3001 et seq.); and

(5) "Planning and service area" means a geographical division of this state that serves as an administrative unit for the purpose of planning and delivering services to older persons and adults with disabilities.

**52-8-102. Establishment; members; terms.**

(a) There is created a commission known as the Tennessee commission on aging and disability. The commission is administratively attached to the department.

(b) The commission must consist of twenty-two (22) members, who are persons who provide leadership in programs for the elderly and disabled in the state. Nineteen (19) of the members must be appointed by the governor, in accordance with this part. Members may come from such diverse areas as housing, recreation, employment, medicine, nursing, social service, business, adult education, long-term care, religion, research, and advocacy. It is desirable that the commission membership reflect the geographic diversity of this state and include minorities and women at least in proportion to their presence in the state's population and that at least one-half ( $\frac{1}{2}$ ) of the membership be representative of the population served. Staff members of programs funded wholly or in part by the commission are ineligible to serve as commission members.

(c) Members of the commission are appointed as follows:

(1) One (1) person must be appointed by the governor from each of the nine (9) planning and service areas, in consultation with each of the nine (9) advisory councils to the nine (9) area agencies on aging. The governor may appoint such persons from a list of two (2) persons nominated by each advisory council to the nine (9) area agencies on aging. In making these appointments, the governor shall strive to achieve adequate representation from both rural and urban areas. This section does not preclude members of the advisory councils from being appointed as commission members;

(2) One (1) member of the governor's staff, who must be appointed by the governor;



(3) One (1) person who is an active member of a chartered, statewide organization that advocates exclusively for older persons must be appointed by the governor. Each such organization may submit two (2) nominations for consideration by the governor;

(4) One (1) person who is an active member of a federally chartered organization with statewide membership and chapters chartered in this state, that advocates exclusively for older persons, must be appointed by the governor. Each such organization may submit two (2) nominations for consideration by the governor;

(5) One (1) person who is an active member of a chartered, statewide organization that advocates exclusively for disabled persons must be appointed by the governor. Each such organization may submit two (2) nominations for consideration by the governor;

(6) The commissioners of human services, health, veterans services, and mental health and substance abuse services; the director of TennCare; or the commissioners' or director's designees;

(7) The commissioner, or the commissioner's designee, who serves as an ex officio member without voting power;

(8) The executive director of the council on developmental disabilities;  
and

(9) The speaker of the senate and the speaker of the house of representatives each shall name one (1) legislator from such speaker's respective house to serve on the commission as ex officio members without voting power to attend and sit with the commission in open meetings, in order to

report back to the general assembly on actions being taken or considered by the commission.

**52-8-103. Powers and duties of the commission.**

(a) The commission shall:

(1) Advise the department on matters relating to the development and execution of programs and services for older adults and adults with disabilities administered by the department as enumerated in this title;

(2) Meet as necessary to transact business; provided, that meetings must be held at least quarterly;

(3) Promulgate bylaws to provide for the election of officers, establishment of committees, meetings, and other matters relating to commission functions; and

(4) Elect a chair, vice chair, and three (3) representatives, one (1) from each of the three (3) grand divisions, who shall comprise the executive committee to function between quarterly meetings.

(b) In addition to the duties otherwise granted to the commission in this part, the commission may:

(1) Make recommendations to the governor, heads of state departments, and the general assembly relative to the needs of older adults and adults with disabilities in this state;

(2) Hold hearings, conduct research, and engage in other appropriate activities to determine the needs of older persons and persons with a disability, including particularly, but not limited to, their needs for health and social services, and to determine the existing services and facilities, private and public, available to meet those needs; and

(3) Create subcommittees to undertake such special studies as the commission authorizes and include in such subcommittees persons qualified in any field of activity relating to aging or disability, or both.

**52-8-104. Members; expenses and expenditures; reimbursement.**

Members of the commission receive no compensation for their services other than a reimbursement for traveling and other expenses incurred in the attendance of meetings required by this part or other meetings authorized by the commission. All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

**52-8-105. Conflict of interest.**

If any matter before the commission involves a project, transaction, or relationship in which a member or a member's associated institution, business, or agency has a direct or a conflicting interest, then the member must make known to the commission that interest and be excused from the proceedings.

**Part 2 – Programs and Services**

**52-8-201. Purposes of part.**

The general purposes of this part are to provide a comprehensive and coordinated service system for the state's aging population, giving high priority to those persons in greatest need, to conduct studies and research into the needs and problems of the aging, and to provide a system of home- and community-based long-term care services that is responsive to the needs of all Tennesseans regardless of age, disability, or economic status.

**52-8-202. Department powers and duties.**

(a) The department shall:

(1) Serve as an advocate within government and in the community for older persons and persons with disabilities in this state;

(2) Designate planning and service areas and area agencies on aging in accordance with the Older Americans Act. The department shall review and amend the boundaries of the planning and service areas as necessary to comply with the Older Americans Act or to reflect changes in governmental boundaries or major changes in population distribution;

(3) Develop and periodically update, as required under the Older Americans Act, a plan for state programs, services, and activities for older persons;

(4) Publish a report and analysis of the waitlist for the state options program pertaining to older persons; furnish the report to the governor and members of the general assembly no later than January 15 of each year; and, upon approval of the governor, further distribute copies of the report as considered proper by the commissioner;

(5) Conduct evaluations, prepare reports, and publish reports in accordance with the requirements in the Older Americans Act;

(6) Receive the cooperation of other state departments and agencies in carrying out the policies and objectives of this part;

(7) Make available to older persons information concerning the nutritional benefits of eating garden produce to promote participation by older persons in community gardens, as defined in § 43-24-102; and

(8) Operate an outreach and counseling program through the state health insurance assistance program (SHIP) to provide state residents with information, education, and counseling regarding medicare; TennCare; medicare

supplement insurance; enrollment in the medicare prescription drug plan (Part D) and the accompanying low-income subsidy; finding help with the cost of prescription drugs during coverage gaps and access to drugs not covered under Part D; medicare advantage options; long-term care planning and insurance; claims and billing resolution, information, and referral on public benefit programs; employer and retiree health insurance options for those with medicare and veterans benefits; and other military health insurance for those with medicare.

(b) Outreach under subdivision (a)(8) must include:

(1) Assistance for medicare-eligible persons in processing the necessary documents in order to participate in the programs;

(2) A toll-free number staffed during business hours to provide information regarding the programs;

(3) A website or referral to website links that provide information regarding the programs; and

(4) Presentations to senior groups regarding the availability of the programs.

(c) The department:

(1) Shall implement the outreach program within available resources;

(2) May apply for grants to fund programs under this subsection (a);

(3) May delegate responsibilities to a contractor; and

(4) May promulgate rules to implement the program, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 2.

(d) This part and the Long-Term Care Community Choices Act of 2008, compiled in title 71, chapter 5, part 14, does not authorize the department or the commission to exercise any control or authority over any aspect of the administration of programs for home- and community-

based long-term care services that were operating on the basis of federal waivers in effect on June 19, 2001.

(e) In addition to the powers, responsibilities, or duties granted to the department in this part, the department may promulgate, amend, revise, and rescind such rules as are necessary and appropriate to carry out this part in accordance with the Uniform Administrative Procedures Act, including rules necessary for the proper management and oversight of the home- and community-based options program.

**52-8-203. Alzheimer's and dementia respite care pilot program.**

(a) As used in this section:

(1) "Agency" means an area agency on aging and disability as defined in § 52-8-101;

(2) "Alzheimer's disease or related dementia" means the diseases and conditions characterized by a decline in memory, language, problem-solving, and other thinking skills that affect an individual's ability to perform everyday activities;

(3) "Informal caregiver" means a spouse, adult child, relative, or friend who provides unpaid care services to an individual, in the individual's home, who suffers from Alzheimer's disease or related dementia;

(4) "Program" means the Alzheimer's and dementia care respite program created by this section; and

(5) "Respite care":

(A) Means temporary, substitute support or living arrangements to provide a brief period of relief or rest for informal caregivers. As used in this subdivision (a)(5), "substitute support" includes, but is not limited to, the following homemaker services:

- (i) In-home respite or companionship;
- (ii) Adult day care;
- (iii) Assistance with personal care, bathing, medication monitoring, and chores;
- (iv) Caregiver training for unpaid, informal caregivers;
- (v) Four (4) hours of overnight respite in a facility; and
- (vi) Any other goods or services necessary to maintain the person with Alzheimer's or related dementia at home; and

(B) Includes in-home care by appropriately trained individuals, or care in an adult day care, assisted living, or nursing home setting, on an intermittent, occasional, or emergency basis.

(b)

(1) There is created the Alzheimer's and dementia respite care pilot program to provide home- and community-based services through grants provided to each of the nine (9) area agencies on aging and disability in this state.

(2) The program may be operated using an agency's existing respite care infrastructure.

(3) An agency shall report the costs of the agency's respite care infrastructure to the commission each year of the pilot program.

(4) The program must:

(A) Be based on grants provided to each of the nine (9) area agencies on aging and disability in this state for respite care services for the sole benefit of individuals who are experiencing symptoms of

Alzheimer's disease or related dementia or who have received a clinical diagnosis of Alzheimer's disease or related dementia;

(B) Be operated from July 1, 2022, to December 31, 2025;

(C) Actively serve up to a total of two hundred twenty-five (225) enrollees, at one (1) time, in each fiscal year of the program's operation;

(D) Reimburse utilizing the department's yearly approved homemaker service unit cost rate;

(E) Give priority for enrollment to those individuals on the waitlist for the current state-funded OPTIONS program as of May 25, 2022;

(F) Exclude an individual with Alzheimer's disease or related dementia who is eligible for long-term care services under the Medical Assistance Act of 1968, compiled in title 71, chapter 5, part 1; and

(G) Provide preference to individuals at or below two hundred fifty percent (250%) of the federal poverty level.

(5) Each agency shall submit a written report no later than January 15, 2023, and by January 15 each year thereafter, until the close of the pilot program period, to the chairs of the health and welfare committee of the senate and the health committee of the house of representatives on the status of the program.

The report must include, at a minimum, the following:

(A) The total funds spent on the program;

(B) The amount of administrative costs to operate the program;

(C) The number of individuals and informal caregivers served by the program;

(D) The income ranges of the individuals and informal caregivers served by the program; and



(E) The efficacy of the program.

(c) This section does not create an entitlement to services through the program, and the services provided and the number of individuals served by the program are subject to appropriations by the general assembly.

**52-8-204. Office of long-term care ombudsman.**

(a) Within the department there is established an office of the state long-term care ombudsman, which carries out those functions delineated in the Older Americans Act.

(b) The office shall designate and contract with, either directly or through the area agency on aging, a local grantee to establish and operate a local ombudsman program in each of the designated planning and service areas. Each local ombudsman program shall carry out the duties of the office in each area through paid staff and trained volunteers. For the purposes of carrying out those duties, and only to the extent required by the Older Americans Act, each local program unit is considered to be a subdivision of the office; provided, that this subsection (b) has no effect upon the character of local government or private agencies or corporations, and they are not considered to be agencies of this state.

(c) Paid staff and volunteers must be trained as required by and under the supervision of the office, which shall certify those persons who have been properly trained as representatives of the office; provided, that local program employees and volunteers are not considered to be employees of this state. The office shall maintain a current listing of certified representatives. Certified representatives are immune from liability for acts or omissions committed within the scope of their assigned duties, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain.

**52-8-205. Congregate and home-delivered meals.**

The standards and procedures developed by the department relative to the nutrition program for older persons operated in accordance with the Older Americans Act must establish a threshold of an annual average of ten (10) congregate and home-delivered meals a day for any nutrition sites.

**52-8-206. Working group; abuse; law enforcement field guide.**

The commissioner shall establish a working group that is led by the department and includes the division of adult protective services of the department of human services, the department of health, the district attorneys general conference, members of local law enforcement, and other state departments and agencies as necessary. The working group shall draft and develop a field guide to provide law enforcement in this state with the specific statutes and other resources related to assisting in the prevention, investigation, and prosecution of abuse under this part or the Tennessee Adult Protection Act, compiled in title 71, chapter 6, part 1.

**52-8-207. Multidisciplinary collaborative coalition; reduction of elder and vulnerable adult abuse, neglect, and exploitation; strategies.**

The commissioner shall establish and lead a multidisciplinary collaborative coalition of state agencies and departments involved in the prevention, investigation, and prosecution of elder and vulnerable adult abuse, neglect, and exploitation. In an effort to reduce this abuse, neglect, and exploitation, the coalition shall develop and undertake strategies to increase communication with the public and state agencies, propose educational outreach, and promote the sharing of existing resources and information.

**52-8-208. Tennessee vulnerable adult coalition; public and private entities; collaboration to prevent abuse, neglect, and financial exploitation.**

There is established the Tennessee vulnerable adult coalition (TVAC) as an advisory entity. The coalition is administratively attached to the department and must be convened by the commissioner. The commissioner shall invite appropriate entities to participate on a volunteer basis. The coalition shall bring public and private entities in this state together to promote the collaboration necessary to prevent the abuse, neglect, and financial exploitation of elderly and vulnerable adults.

**52-8-209. Funding for support of older adults; resource mapping; reports.**

(a) The department shall design and oversee a resource mapping of all federal- and state-funding sources and funding streams as well as resources for nonprofit and other nongovernmental entities that support the health, safety, and welfare of older adults in this state who are sixty (60) years of age or older. The resource mapping must include, but not be limited to:

(1) An inventory of all federal- and state-funding sources that support these older adults in this state;

(2) An inventory of all state, federal, or government subsidized services and programs offered to these older adults in this state, set out by program, target population, geographical region, agency, or any other grouping that would assist the general assembly in determining whether there are overlapping programs that lead to duplication within this state, gaps in service delivery, and any administrative inefficiencies generally;

(3) A description of the manner in which the funds are being used within the agencies or organizations, the performance measures in place to assess the use of such funding, and the intended outcomes of the programs and services;

(4) Government mandates for the use of the funds, if any; and

(5) An inventory of the funds for which the state may be eligible, but is currently not receiving or using, and the reasons why the funds are not being used.

(b) The department shall update the report each year and subsequently assure that the resource map is periodically and timely updated, so as to maintain a current resource map of the funds used to support these older adults in the state.

(c) The comptroller of the treasury and each department of state government or agency in this state shall provide assistance upon request to the department in effectuating this section.

(d) On or before January 15, 2019, the department shall provide a preliminary report to the health and welfare committee of the senate and the health committee of the house of representatives. On or before December 15, 2020, and each successive year thereafter, the department shall provide a full report to the health and welfare committee of the senate and the health committee of the house of representatives. The full report must include, but not be limited to, the resource map and any recommendations, including proposed legislation, for improving the efficiency and effectiveness of programs offered to older adults who are sixty (60) years of age or older in this state.

**52-8-210. Unlicensed facilities; registry; rules.**

(a) As used in this section, unless the context otherwise requires:

(1) "State agency" means an agency of state government, including, but not limited to:

(A) The department of disability and aging;

(B) The department of mental health and substance abuse services;

(C) The department of human services, including the division of adult protective services;

(D) The department of children's services;

(E) The department of commerce and insurance, including the state fire marshal's office;

(F) The Tennessee bureau of investigation;

(G) The bureau of TennCare;

(H) The department of health; and

(I) The health facilities commission.

(2) "Unlicensed facility" means a facility that has been found to be in violation of § 33-2-405, § 52-2-405, or § 68-11-213 for failure to be licensed by a state agency; and

(3) "Vulnerable person" means a person eighteen (18) years of age or older who, by reason of advanced age or other physical or mental condition, is deemed by a state agency to be vulnerable.

(b) The department shall establish and maintain a registry containing the names and addresses of unlicensed facilities that have been determined by a state agency to be providing care to elderly or vulnerable persons without maintaining the appropriate licensure under titles 33, 52, or 68. The department shall publish the registry on its website.

(c) A state agency that finds that a person or facility is operating an unlicensed facility in violation of § 33-2-405, § 52-2-405, or § 68-11-213 shall notify the department within five (5) business days of the finding. The state agency shall provide the department with the following:

(1) The name of the facility;

- (2) The names of the facility's owners or operators;
- (3) The physical location or mailing address of the facility;
- (4) A citation to the statutory or regulatory authority used by the state agency in making the finding; and
- (5) Other information that the state agency deems necessary to adequately identify the facility to the public.

(d) Within five (5) business days of receipt of notice under subsection (c), the department shall publish on the registry the documents and information provided by the state agency. The department shall notify the person or facility in writing, based on the mailing address provided by the state agency, within three (3) business days of publication on the registry.

(e) A person or facility published on the registry may appeal the publication to the department within thirty (30) days of notification under subsection (d). The department shall afford the person or facility a hearing in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. Following the contested case, if the department finds that the person or facility was appropriately placed on the registry and was in operation after receiving notice under subsection (d), then the department may seek injunctive relief in Davidson County chancery court.

(f) On or after July 1, 2022, it is unlawful for a person or facility to operate an unlicensed facility in violation of § 33-2-405, § 52-2-405, or § 68-11-213 after notification of publication on the registry. A violation of this subsection (f) is a Class D felony.

(g) A state agency that notified the department of a finding under subsection (c) may later recommend to the department the removal of a person or facility's information from the registry, if:

(1) The state agency finds that the original notice to the department was in error; or

(2) The facility has applied for and obtained the necessary licensure.

The state agency shall provide the facility's license number and the date of licensure.

(h) The department may promulgate rules to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(i) This section does not require a person or facility to be licensed if the person or facility is not required to be licensed under this title or titles 33, 68, or 71.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following as a new section:

**68-1-1\_\_\_. State palliative care and quality of life advisory council.**

(a) As used in this section:

(1) "Commissioner" means the commissioner of health;

(2) "Council" means the state palliative care and quality of life council created by this section;

(3) "Department" means the department of health; and

(4) "Palliative care":

(A) Means an approach that improves the quality of life of patients and their families facing the problems associated with chronic life-threatening illness, through the prevention and relief of suffering by means of early identification, assessment, and treatment of pain and other physical, psychosocial, and spiritual problems; and

(B) Includes:

(i) Discussions involving a patient's goals for treatment;

(ii) Discussions involving treatment options that are appropriate to the patient, including, where appropriate, hospice care; and

(iii) Comprehensive pain and symptom management.

(b) The state palliative care and quality of life council is established.

(c) The purpose of the council is to continually assess the current status of palliative care in this state and review the barriers that exist that prevent such care from being obtained and utilized by the people who could benefit from such care. The council shall provide recommendations to the governor and to the general assembly on issues related to its work.

(d)

(1) The commissioner shall appoint the council membership after consulting with the Tennessee Hospice Association, Tennessee Hospital Association, Tennessee Medical Association, Tennessee Nursing Association, Tennessee Health Care Association, Tennessee Association of Home Care, and the Tennessee Chapter of the American Cancer Society and shall include interdisciplinary palliative care, medical, nursing, social work, pharmacy, and spiritual professional expertise; patient and family caregiver advocate representation; and any other relevant appointees the executive director determines appropriate.

(2) The council consists of no more than twelve (12) members.

(3) The commissioner shall consider the racial, geographic, urban/rural, and economic diversity of the state when appointing members.



(4) Membership must specifically include health professionals having palliative care work experience or expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings such as acute care, long-term care, and hospice, and with a variety of populations, including pediatric, youth, and adult.

(5) At least one (1) council member must be a board-certified hospice and palliative medicine physician, at least one (1) council member must be a licensed certified registered nurse practitioner with expertise in palliative care, one (1) council member must be the executive director of the health facilities commission or the executive director's designated representative, and one (1) council member must be from the department of disability and aging.

(6) Council members are appointed for a term of three (3) years.

(7) The members shall elect a chair and vice chair, whose duties are established by the council.

(8) The council shall fix a time and place for regular meetings and shall meet no less than twice yearly.

(e) Council members receive no compensation for their services or travel reimbursement for attending meetings.

(f) The council shall consult with and advise the commissioner on matters related to the establishment, maintenance, and operation of palliative care initiatives in this state.

(g) The department shall provide administrative support to the council.

(h) By January 15, 2020, and by January 15 of each subsequent year, the council shall submit a report to the general assembly that addresses barriers to palliative

care access, analyzes service utilization data, and provides recommendations and best practices to address gaps in service.

SECTION 4. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following as a new section:

**68-1-1\_\_\_. Alzheimer's disease and related dementia advisory council.**

(a) As used in this section:

(1) "Alzheimer's disease" means a progressive degenerative disease of the brain that leads to dementia, and is characterized by the finding of unusual helical protein filaments in nerve cells of the brain;

(2) "Commissioner" means the commissioner of health; and

(3) "Department" means the department of health.

(b) There is created the state Alzheimer's disease and related dementia advisory council.

(c)

(1) The council is composed of no less than eleven (11) and no more than seventeen (17) members, which include:

(A) One (1) member of the health and welfare committee of the senate, to be appointed by the speaker of the senate;

(B) One (1) member of the health committee of the house of representatives, to be appointed by the speaker of the house of representatives;

(C) The commissioner of disability and aging, or the commissioner's designee, who serves as an ex-officio voting member;

(D) One (1) person to be appointed by the governor;

(E) One (1) licensed medical professional with experience in Alzheimer's disease and related dementia care, to be appointed by the commissioner;

(F) One (1) person diagnosed with Alzheimer's disease or related dementia, to be appointed by the commissioner;

(G) A representative of Alzheimer's Tennessee, Inc., to be appointed by the commissioner;

(H) A representative of the Alzheimer's Association, to be appointed by the commissioner;

(I) A representative of the bureau of TennCare, to be appointed by the commissioner;

(J) A representative of the Tennessee Health Care Association, to be appointed by the commissioner;

(K) A representative of LeadingAge Tennessee, to be appointed by the commissioner;

(L) A representative of the Tennessee Nurses Association, to be appointed by the commissioner;

(M) The commissioner of mental health and substance abuse services, or the commissioner's designee;

(N) The executive director of the Tennessee health facilities commission;

(O) The commissioner of health, or the commissioner's designee;  
and

(P) Any other person possessing relevant experience with Alzheimer's disease and related dementia care, to be appointed by the commissioner.

(2)

(A) The members listed in subdivisions (c)(1)(E)-(L) may be appointed by the commissioner from lists of qualified nominees submitted by groups involved in the study of Alzheimer's disease and related dementia, including, but not limited to, the Alzheimer's Association, Alzheimer's Tennessee, the department of disability and aging, the department of mental health and substance abuse services, the bureau of TennCare, the Tennessee Health Care Association, the Tennessee Association for Home Care, and the Tennessee Nurses Association.

(B) The commissioner shall consult with the interested groups listed in subdivision (c)(2)(A) to determine qualified persons to fill the positions as provided in this subsection (c).

(d)

(1) The persons appointed under subdivisions (c)(1)(A) and (B) are nonvoting members of the council. They serve only so long as they remain members of the general assembly. Any legislative vacancy on the council must be filled by the respective speaker, for the purpose of serving out the remainder of the unexpired term.

(2) The members appointed under subdivisions (c)(1)(C)-(P) are voting members and are eligible for reappointment to the council. Any vacancy among the private citizen members must be filled by the respective appointing authority to serve for the remainder of the unexpired term.

(e) Except as provided in subsection (f), for initial appointments, the terms of the members of the council are for three (3) years.

(f)

(1) In order to stagger the terms of the newly appointed council members, initial appointments must be made as follows:

(A) The persons appointed under subdivisions (c)(1)(D)-(F) serve an initial term of one (1) year, which expires on June 30, 2020;

(B) The persons appointed under subdivisions (c)(1)(G)-(I) serve an initial term of two (2) years, which expires on June 30, 2021; and

(C) The persons appointed under subdivisions (c)(1)(J) and (K) serve an initial term of three (3) years, which expires on June 30, 2022.

(2) Following the expiration of members' initial terms as prescribed in subdivision (f)(1), all three-year terms begin on July 1 and terminate on June 30, three (3) years later.

(g) The members shall elect a chair and a vice chair, whose duties are established by the council.

(h) In making the appointments under subsection (c), the commissioner shall strive to ensure that the council is composed of persons who are diverse in professional or educational background, ethnicity, race, sex, geographic residency, heritage, perspective, and experience.

(i) The council shall fix a time and place for regular meetings and shall meet no less than twice yearly to review the state plan and all related metrics and outcomes. The commissioner shall call the first meeting of the council. All other meetings of the council shall be at the call of the chair.

(j) A majority of the voting members of the council constitutes a quorum, and all official action of the council requires a quorum.

(k) The respective appointing authority may remove a private citizen member of the council for misconduct, incapacity, or neglect of duty.

(l)

(1) The legislative members of the council must be reimbursed as members of the general assembly are paid for attending legislative meetings as provided in § 3-1-106.

(2) The private citizen members of the council do not receive travel expenses or compensation for their service.

(m) The purpose of the council is to:

(1) Continually assess the current status of Alzheimer's disease and related dementia in this state and to assess the current and future impact of Alzheimer's disease and dementia on residents of this state;

(2) Examine the existing industries, services, and resources addressing the needs of persons, families, and caregivers affected by Alzheimer's disease and related dementia;

(3) Develop a strategy to mobilize a state response to matters regarding Alzheimer's disease and related dementia; and

(4) Provide recommendations to the governor and to the general assembly on issues related to its work.

(n) The council is administratively attached to the department of health. The council shall consult and advise the commissioner on matters related to the establishment, maintenance, and operation of state initiatives related to Alzheimer's disease and related dementia.

(o) The commissioner and council shall make best efforts to engage the community at large in making its assessments and recommendations regarding Alzheimer's disease and related dementia.

(p) No later than January 15, 2020, the council shall develop and submit an Alzheimer's disease state plan to the chair of the government operations committee of the senate, the chair of the government operations committee of the house of representatives, the chair of the health and welfare committee of the senate, and the chair of the health committee of the house of representatives that identifies barriers to Alzheimer's disease care, analyzes service utilization data, and includes recommendations, metrics, and best practices to address gaps in service. The council shall update the plan and report to the chairs of such legislative committees on its progress no later than January 15 of each year.

SECTION 5. Tennessee Code Annotated, Section 33-1-101(4), is amended by deleting the subdivision and substituting:

(4) "Chief officer" means the person with overall authority for a public or private hospital or treatment resource, or the person's designee;

SECTION 6. Tennessee Code Annotated, Section 33-1-101(6), is amended by deleting the language "when the statute at issue relates to mental illness or serious emotional disturbance and means the commissioner of intellectual and developmental disabilities when the statute at issue relates to intellectual and developmental disabilities".

SECTION 7. Tennessee Code Annotated, Section 33-1-101(9), is amended by deleting the language "when the statute at issue deals with mental illness or serious emotional disturbance and means the department of intellectual and developmental disabilities when the statute at issue deals with intellectual and developmental disabilities".

SECTION 8. Tennessee Code Annotated, Section 33-1-101, is amended by deleting subdivisions (10), (11), and (16) and renumbering the remaining subdivisions accordingly.

SECTION 9. Tennessee Code Annotated, Section 33-1-101(19), is amended by inserting the language "as defined in title 52" immediately after the language "developmental disabilities".

SECTION 10. Tennessee Code Annotated, Section 33-1-101(21), is amended by deleting the language "alcohol dependence, drug dependence, or developmental disabilities" and substituting "alcohol dependence, or drug dependence".

SECTION 11. Tennessee Code Annotated, Section 33-1-101(23), is amended by deleting the language "mental illness, serious emotional disturbance, or a developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 12. Tennessee Code Annotated, Section 33-1-101(24), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 13. Tennessee Code Annotated, Section 33-1-201, is amended by deleting the language "the state's mental health and developmental disabilities authority" and substituting "the state's mental health authority" and by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 14. Tennessee Code Annotated, Section 33-1-204, is amended by deleting subsection (b).

SECTION 15. Tennessee Code Annotated, Section 33-1-301(b), is amended by deleting the language "and developmental disabilities".



SECTION 16. Tennessee Code Annotated, Section 33-1-303(3), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 17. Tennessee Code Annotated, Section 33-1-303(5), is amended by deleting the language "and developmental disabilities".

SECTION 18. Tennessee Code Annotated, Section 33-1-307(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 19. Tennessee Code Annotated, Section 33-1-308(a)(1)(H), is amended by deleting the language "and developmental disabilities".

SECTION 20. Tennessee Code Annotated, Section 33-1-308(b), is amended by deleting the language "developmental disabilities,".

SECTION 21. Tennessee Code Annotated, Section 33-1-309, is amended by deleting the section and substituting:

The department shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 22. Tennessee Code Annotated, Section 33-2-101, is amended by deleting the language "mental illness, serious emotional disturbance, developmental disabilities," and substituting "mental illness or serious emotional disturbance,".

SECTION 23. Tennessee Code Annotated, Section 33-2-102(b)(2), is amended by deleting the subdivision and substituting:

(2) Promote the early identification of children with mental illness or serious emotional disturbance to assure they receive services and supports appropriate to their changing needs.

SECTION 24. Tennessee Code Annotated, Section 33-2-102(c), is amended by deleting the language "mental illness, serious emotional disturbance, and developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 25. Tennessee Code Annotated, Section 33-2-202, is amended by deleting the language "a state developmental disabilities planning and policy council, a state mental health planning and policy council, and regional citizen-based planning and policy councils" and substituting "a state mental health planning and policy council, a regional citizen-based planning council, and policy councils".

SECTION 26. Tennessee Code Annotated, Section 33-2-301(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 27. Tennessee Code Annotated, Section 33-2-401, is amended by deleting the language ", Intellectual and Developmental Disabilities,".

SECTION 28. Tennessee Code Annotated, Section 33-2-402, is amended by deleting the language "or, when applicable, the commissioner of intellectual and developmental disabilities" in subdivision (4); by deleting the language ", or, when applicable, the deputy commissioner of intellectual and developmental disabilities" in subdivision (4); and by deleting ", or, when applicable, the department of intellectual and developmental disabilities" in subdivision (6).

SECTION 29. Tennessee Code Annotated, Section 33-2-402(2), is amended by deleting the language "group residence (boarding home, sheltered workshop, activity center),".

SECTION 30. Tennessee Code Annotated, Section 33-2-402(7), is amended by deleting the language "developmental center," and "group residence, boarding home, sheltered workshop, activity center," and ", intellectual or developmental disability".

SECTION 31. Tennessee Code Annotated, Section 33-2-402(15), is amended by deleting the language "emotional disturbance, alcohol and drug use, intellectual or developmental disabilities" and substituting "emotional disturbance or alcohol or drug use" and by deleting the language "alcohol and drug abuse issues, serious emotional disturbances, and intellectual or developmental disabilities" and substituting "alcohol and drug abuse issues and serious emotional disturbances".

SECTION 32. Tennessee Code Annotated, Section 33-2-402, is amended by deleting subdivision (5) and renumbering the remaining subdivisions accordingly.

SECTION 33. Tennessee Code Annotated, Section 33-2-403(a), is amended by deleting the subsection and substituting:

(a) The department has the authority to license services and facilities operated for the provision of mental health services, alcohol and drug abuse prevention or treatment, and personal support services. Subject to subsection (c), the department shall also license personal support services for the aged as well as persons with mental illness. A personal support services agency licensed by the department may also serve individuals with physical or other disabilities. Notwithstanding any references in this part to the licensing of "facilities" or "services," only persons, proprietorships, partnerships, associations, governmental agencies, or corporations may be licensed on license applications or licenses as the licensed entity.

SECTION 34. Tennessee Code Annotated, Section 33-2-403(b)(2), is amended by deleting the language "mental illness, serious emotional disturbance or developmental disability" and substituting instead "mental illness or serious emotional disturbance".

SECTION 35. Tennessee Code Annotated, Section 33-2-403(b)(8), is amended by deleting the language "or developmental disabilities" wherever it appears.

SECTION 36. Tennessee Code Annotated, Section 33-2-403(b)(9), is amended by deleting the language "mental health, alcohol and drug abuse prevention and/or treatment services or intellectual or developmental disabilities services" and substituting "mental health or alcohol and drug abuse prevention or treatment services".

SECTION 37. Tennessee Code Annotated, Section 33-2-403, is amended by deleting subdivision (b)(10).

SECTION 38. Tennessee Code Annotated, Section 33-2-403(c)(1), is amended by deleting the language "Personal support services agencies that provide services for the aged or persons with mental illness and persons with intellectual or developmental disabilities shall not be required to obtain a license from both departments" and substituting "Personal support services agencies that provide services for the aged or persons with a mental illness and persons with an intellectual or developmental disability are not required to obtain a license from both the department of mental health and substance abuse services and the department of disability and aging".

SECTION 39. Tennessee Code Annotated, Section 33-2-403(d)(2), is amended by deleting the subdivision and substituting:

(2) The panel's membership consists of:

(A) The commissioner or the commissioner's designee;

(B) A representative of licensed community mental health services and a representative of licensed alcohol and drug abuse prevention and/or treatment services;

(C) A representative of a licensed residential facility for persons with mental illness or serious emotional disturbance and a representative of a licensed residential facility for alcohol and drug abuse prevention and/or treatment services;

(D) A representative of a licensed residential mental health facility for children and youth;

(E) Five (5) service recipient representatives; and

(F) A representative of a personal support services agency.

SECTION 40.

(a) Tennessee Code Annotated, Section 33-2-404, is amended by deleting the language "Each department" wherever it appears and substituting "The department".

(b) Tennessee Code Annotated, Section 33-2-404, is amended by deleting the language "A department" wherever it appears and substituting "The department".

(c) Tennessee Code Annotated, Section 33-2-404, is amended by deleting the language "a department" wherever it appears and substituting "the department".

SECTION 41. Tennessee Code Annotated, Section 33-2-404(a), is amended by deleting the language "mental health, alcohol and drug abuse prevention and/or treatment, and intellectual and developmental disabilities" and substituting "mental health and alcohol and drug abuse prevention and/or treatment".

SECTION 42. Tennessee Code Annotated, Section 33-2-405(a), is amended by deleting the language "or intellectual or developmental disability".

SECTION 43. Tennessee Code Annotated, Section 33-2-406, is amended by deleting the language "a department" and substituting "the department", by deleting the language "a department's" and substituting "the department's", by deleting the language "intellectual or developmental disability" wherever it appears in subsections (a) and (b), and by deleting the language "except as permitted by § 33-2-418(b)(3)".

SECTION 44. Tennessee Code Annotated, Section 33-2-408, is amended by deleting the section.

SECTION 45.

(a) Tennessee Code Annotated, Section 33-2-412, is amended by deleting the language "A department" and substituting "The department" wherever it appears.

(b) Tennessee Code Annotated, Section 33-2-412, is amended by deleting the language "a department" and substituting "the department" wherever it appears.

(c) Tennessee Code Annotated, Section 33-2-412, is amended by deleting the language "intellectual or developmental disability services" wherever it appears.

SECTION 46. Tennessee Code Annotated, Section 33-2-417, is amended by deleting the language "If a commissioner" and substituting "If the commissioner" in subsection (a) and by deleting the language ", intellectual or developmental disability services" wherever it appears.

SECTION 47. Tennessee Code Annotated, Section 33-2-418, is amended by deleting the section.

SECTION 48. Tennessee Code Annotated, Section 33-2-502, is amended by deleting the language "persons with developmental disabilities, mental illness, and serious emotional disturbance" in the first sentence and substituting "persons with mental illness and serious emotional disturbance" and by deleting the language "and developmental disabilities" in the second sentence.

SECTION 49. Tennessee Code Annotated, Section 33-2-602, is amended by deleting the language "A licensee may not cease to provide services and supports to a service recipient with a developmental disability during the pendency of the conflict resolution over the objection of the service recipient."

SECTION 50. Tennessee Code Annotated, Section 33-2-603, is amended by deleting the section.

SECTION 51. Tennessee Code Annotated, Section 33-2-803(b), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 52. Tennessee Code Annotated, Section 33-2-1109(a)(2), is amended by deleting the language "chapter 5, part 5 of this title, or".

SECTION 53. Tennessee Code Annotated, Section 33-2-1201(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 54. Tennessee Code Annotated, Section 33-2-1202, is amended by deleting subdivision (c)(2), subsection (e), and subsection (f) and renumbering the remaining subdivision accordingly.

SECTION 55. Tennessee Code Annotated, Section 33-2-1301, is amended by deleting the language "or developmental disabilities" wherever it appears.

SECTION 56. Tennessee Code Annotated, Section 33-2-1302(c), is amended by deleting the language "or developmental disabilities".

SECTION 57. Tennessee Code Annotated, Section 33-2-1303, is amended by deleting the language "or developmental disabilities".

SECTION 58.

(a) Tennessee Code Annotated, Section 33-3-101(a), is amended by deleting the subsection and substituting:

(a) A person must not be deprived of liberty on the grounds that the person has or is believed to have a mental illness or a serious emotional disturbance, or is in need of service for such a condition except in accordance with this title.

(b) Tennessee Code Annotated, Section 33-3-101, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance" in subsections (b) and (c).

SECTION 59. Tennessee Code Annotated, Section 33-3-102(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 60. Tennessee Code Annotated, Section 33-3-106(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance" and by deleting the language "those made under the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (42 U.S.C. § 6000 et seq.)" and substituting "those made under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. § 15001 et seq.)".

SECTION 61. Tennessee Code Annotated, Section 33-3-114(1), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 62. Tennessee Code Annotated, Section 33-3-120(c), is amended by deleting the subsection.

SECTION 63. Tennessee Code Annotated, Section 33-3-125, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 64. Tennessee Code Annotated, Section 33-3-202(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 65. Tennessee Code Annotated, Section 33-3-209, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 66. Tennessee Code Annotated, Section 33-3-218(1)(A), is amended by deleting the subdivision and renumbering the remaining subdivisions accordingly.



SECTION 67. Tennessee Code Annotated, Title 33, Chapter 3, Part 2, is amended by deleting §§ 33-3-219, 33-3-220, and 33-3-221.

SECTION 68. Tennessee Code Annotated, Section 33-3-301(b)(1), is amended by deleting the language "Notwithstanding any other provisions of this section, any transfer to a developmental center authorized under this section shall not exceed forty-five (45) days unless the transfer complies with department rules."

SECTION 69. Tennessee Code Annotated, Section 33-3-303, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" wherever it appears in subsection (a) and subdivision (b)(1) and substituting "mental illness or serious emotional disturbance" and by deleting the language "mental illness, serious emotional disturbance, or developmental disabilities" wherever it appears in subdivision (b)(2) and substituting "mental illness or serious emotional disturbance".

SECTION 70. Tennessee Code Annotated, Section 33-3-401, is amended by deleting the language "or the department of intellectual and developmental disabilities" and "or the commissioner of intellectual and developmental disabilities" wherever they appear in subdivisions (a)(2) and (b)(1).

SECTION 71. Tennessee Code Annotated, Section 33-3-402, is amended by deleting the language "mental illness, serious emotional disturbance, or intellectual disability" in subdivision (a)(1) and substituting "mental illness or serious emotional disturbance" and by deleting the language "or the department of intellectual and developmental disabilities" in subdivision (a)(2).

SECTION 72. Tennessee Code Annotated, Section 33-3-404, is amended by deleting the language "or the commissioner of intellectual and developmental disabilities, as appropriate,".

SECTION 73. Tennessee Code Annotated, Section 33-3-408(a), is amended by deleting the language "If the transfer was based on intellectual disability, the chief officer's decision shall be based on the advice of a licensed physician or a licensed psychologist with health service provider designation."

SECTION 74. Tennessee Code Annotated, Section 33-3-501, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" wherever it appears and substituting "mental illness or serious emotional disturbance" and by deleting "§§ 33-5-302, 33-5-303, and 33-6-207, and chapter 6" in subsection (b) and substituting "§ 33-6-207 and chapter 6".

SECTION 75. Tennessee Code Annotated, Section 33-3-502, is amended by deleting the language "or developmental center" wherever it appears in subdivision (b)(1), subdivision (b)(2), and subsection (c), and by deleting the language "mental illness, serious emotional disturbance, or developmental disability" in subdivision (b)(2) and substituting "mental illness or serious emotional disturbance".

SECTION 76. Tennessee Code Annotated, Section 33-3-603(a), is amended by deleting the language "developmental center, hospital, or treatment resource" and substituting "hospital or treatment resource".

SECTION 77. Tennessee Code Annotated, Section 33-3-619, is amended by deleting the language "hospital, treatment resource, or developmental center" and substituting "hospital or treatment resource".

SECTION 78. Tennessee Code Annotated, Section 33-3-801, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" wherever it appears and substituting "mental illness or serious emotional disturbance".

SECTION 79. Tennessee Code Annotated, Section 33-3-802, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability"

wherever it appears and substituting "mental illness or serious emotional disturbance" and by deleting the language ", or §§ 33-5-402 and 33-5-403".

SECTION 80. Tennessee Code Annotated, Section 33-3-803, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance"; by deleting the language "or developmental center" and substituting "or treatment resource"; and by deleting the language "§§ 33-5-402 and 33-5-403, or".

SECTION 81. Tennessee Code Annotated, Section 33-3-901, is amended by deleting the language "developmental disability, mental illness, or serious emotional disturbance" wherever it appears in subdivisions (a)(1) and (b)(1) and substituting "mental illness or serious emotional disturbance" and by deleting the language ", developmental center," in subsection (c).

SECTION 82. Tennessee Code Annotated, Section 33-3-902, is amended by deleting the language "developmental disability, mental illness, or serious emotional disturbance" and substituting "mental illness or serious emotional disturbance".

SECTION 83. Tennessee Code Annotated, Section 33-3-904(a) and (b), are amended by deleting the language "developmental disability, mental illness, or serious emotional disturbance" wherever it appears and substituting "mental illness or serious emotional disturbance" and by deleting the language "or developmental center" wherever it appears.

SECTION 84. Tennessee Code Annotated, Section 33-4-101(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 85. Tennessee Code Annotated, Section 33-4-103, is amended by deleting the language "hospital, developmental center, or other residential service" and substituting "hospital or residential service".

SECTION 86. Tennessee Code Annotated, Section 33-4-104, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 87. Tennessee Code Annotated, Section 33-4-105(a), is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance" and by deleting the language "hospital, developmental center, or other residential service" and substituting "hospital or residential service".

SECTION 88. Tennessee Code Annotated, Section 33-4-106(a), is amended by deleting the language "hospital, developmental center, or other residential service" and substituting "hospital or residential service".

SECTION 89. Tennessee Code Annotated, Section 33-4-108, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 90. Tennessee Code Annotated, Section 33-4-202, is amended by deleting the language "mental illness, serious emotional disturbance, or developmental disability" and substituting "mental illness or serious emotional disturbance".

SECTION 91. Tennessee Code Annotated, Title 33, Chapter 5, is amended by deleting the chapter.

SECTION 92. Tennessee Code Annotated, Sections 33-8-101(a) and 33-8-102, are amended by deleting the language "serious emotional disturbance, mental illness, or developmental disabilities" and substituting "mental illness or serious emotional disturbance".

SECTION 93. Tennessee Code Annotated, Section 33-8-103, is amended by deleting the language "Children with developmental disabilities are a priority population for the department's developmental disabilities services and supports.".

SECTION 94. Tennessee Code Annotated, Section 33-8-105, is amended by deleting the language "and developmental disabilities".

SECTION 95. Tennessee Code Annotated, Section 33-8-201, is amended by deleting the language "alcohol dependence, drug dependence, or developmental disability" and substituting "alcohol or drug dependence".

SECTION 96. Tennessee Code Annotated, Section 33-9-207, is amended by deleting the language "alcohol dependence, drug dependence, or developmental disability" and substituting "or alcohol or drug dependence".

SECTION 97. Tennessee Code Annotated, Section 33-10-102(7), is amended by deleting the language "or for the intellectually disabled,".

SECTION 98. Tennessee Code Annotated, Title 71, Chapter 2, Part 1, is amended by deleting the part.

SECTION 99. Tennessee Code Annotated, Section 2-7-112(a)(3)(B)(iii), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 100. Tennessee Code Annotated, Section 2-12-114(b)(1)(D), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 101. Tennessee Code Annotated, Section 4-3-101(15), is amended by deleting the language "department of intellectual and developmental disabilities" and substituting "department of disability and aging".

SECTION 102. Tennessee Code Annotated, Section 4-3-111(15), is amended by deleting the language "commissioner of department of intellectual and developmental disabilities, for the department of intellectual and developmental disabilities" and substituting "commissioner of department of disability and aging, for the department of disability and aging".

SECTION 103. Tennessee Code Annotated, Section 4-3-123, is amended by deleting the section.

SECTION 104. Tennessee Code Annotated, Section 4-3-2311(b)(2)(I), is amended by deleting the language "commission on aging and disability" and substituting "department of disability and aging".

SECTION 105. Tennessee Code Annotated, Section 4-3-2701, is amended by deleting the section and substituting:

(a) There is established the department of disability and aging.

(b) The general functions of the department are to coordinate, set standards for, plan for, monitor, and promote the development and provision of services and supports to meet the needs of persons with disabilities and older persons through the public and private sectors in this state as set out in applicable provisions of title 52.

SECTION 106. Tennessee Code Annotated, Section 4-3-2702, is amended by deleting the language "department of intellectual and developmental disabilities" in subsections (a) and (b) and substituting "department of disability and aging".

SECTION 107. Tennessee Code Annotated, Section 4-3-2703, is amended by deleting the section and substituting:

(a) The department of disability and aging has jurisdiction over the intellectual and developmental disabilities facilities of the state, regardless of the names by which the facilities are known.

(b) The department, through its appropriate officials, has the power and duty to provide the best possible care for persons with intellectual and developmental disabilities in the state by improving existing facilities, by developing future facilities and programs, and by adopting a preventive program for intellectual and developmental disabilities, as provided in title 52, with control over those services and supports as set out in title 52.

(c) Licensing of these facilities is the responsibility of the department of disability and aging.

SECTION 108. Tennessee Code Annotated, Section 4-3-2706, is amended designating the existing subsection (b) as subsection (c) and inserting the following as new subsection (b):

(b) Contracts or leases entered into prior to July 1, 2024, with respect to any program or function transferred to the department of disability and aging with any entity, corporation, agency, enterprise, or person, continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on July 1, 2024, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise, or person and the department of disability and aging, unless and until such contracts or leases are amended or modified by the parties thereto or until the expiration of such contract.

SECTION 109. Tennessee Code Annotated, Section 4-3-2707, is amended by deleting the language "On January 15, 2011, the department of intellectual and developmental disabilities" wherever it appears and substituting "On July 1, 2024, the department of disability and aging".

SECTION 110. Tennessee Code Annotated, Section 4-3-2708, is amended by deleting the language "hereafter be administered and enforced by the department of intellectual and developmental disabilities" and substituting "hereafter be administered and enforced by the department of disability and aging" and by deleting the language "To this end, the department of intellectual and developmental disabilities" and substituting "To this end, the department of disability and aging".

SECTION 111. Tennessee Code Annotated, Section 4-3-2710, is amended by deleting the language "department of intellectual and developmental disabilities" and substituting "department of disability and aging" and by deleting the language "created by § 33-5-601".

SECTION 112. Tennessee Code Annotated, Section 4-3-2711, is amended by deleting the language "intellectual and developmental disabilities" wherever it appears in subdivision (b)(1) and subsection (e) and substituting "disability and aging".

SECTION 113. Tennessee Code Annotated, Section 4-29-247(a)(44), is amended by deleting the language "created by § 71-2-104" and substituting "created by § 52-8-102".

SECTION 114. Tennessee Code Annotated, Section 4-29-248(a)(18), is amended by deleting the language "Department of intellectual and developmental disabilities" and substituting "Department of disability and aging".

SECTION 115. Tennessee Code Annotated, Section 4-29-249(a), is amended by deleting the language "for the department of intellectual and developmental disabilities, created by § 33-5-601" in subdivision (25) and substituting "for the department of disability and aging, created by § 52-5-601" and by deleting the language "created by § 33-5-208" in subdivision (23) and substituting "created by § 52-5-208".

SECTION 116. Tennessee Code Annotated, Section 8-8-201(b)(1), is amended by deleting the language "33-5-409" and substituting "52-5-410".

SECTION 117. Tennessee Code Annotated, Section 34-7-103, is amended by deleting the language "commission on aging" and substituting "department of disability and aging" and by deleting the language "commission" wherever it appears and substituting "department".

SECTION 118. Tennessee Code Annotated, Section 34-7-104, is amended by deleting "commission on aging" wherever it appears in subdivision (d)(2), subdivision (g)(1), subsection (k), subsection (m), and subdivision (n)(1) and substituting "department of disability and aging" and by deleting the language "executive director of the Tennessee commission on aging and disability" in subdivision (n)(1) and substituting "commissioner of the department of disability and aging".



SECTION 119. Tennessee Code Annotated, Section 34-7-105, is amended by deleting the language "commission on aging" and substituting "department of disability and aging".

SECTION 120. Tennessee Code Annotated, Section 37-1-128(e)(3), is amended by deleting the language "33-5-402" and substituting "52-5-403".

SECTION 121. Tennessee Code Annotated, Section 37-1-504(a), is amended by deleting the language "intellectual and developmental disability" and substituting "disability and aging".

SECTION 122. Tennessee Code Annotated, Section 37-1-603(b)(1), is amended by deleting the language "department of intellectual and developmental disabilities" and substituting "department of disability and aging".

SECTION 123. Tennessee Code Annotated, Section 37-2-414(c), is amended by deleting the language "commission on aging and disability" and substituting "department of disability and aging".

SECTION 124. Tennessee Code Annotated, Section 37-3-111(c)(1), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 125. Tennessee Code Annotated, Section 37-3-605, is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 126. Tennessee Code Annotated, Section 37-5-106(a), is amended by deleting the language "intellectual and developmental disabilities" wherever it appears in subdivisions (1) and (8) and substituting "disability and aging".

SECTION 127. Tennessee Code Annotated, Section 37-5-107(f), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 128. Tennessee Code Annotated, Section 37-5-603(a)(2), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 129. Tennessee Code Annotated, Section 40-28-106(f), is amended by deleting the language "and intellectual and developmental disabilities" and substituting ", and disability and aging".

SECTION 130. Tennessee Code Annotated, Section 40-35-211(1), is amended by deleting the language "33-5-406" and substituting "52-5-407".

SECTION 131. Tennessee Code Annotated, Section 40-35-302(b), is amended by deleting the language "33-5-406" and substituting "52-5-407".

SECTION 132. Tennessee Code Annotated, Section 40-38-110(a)(6), is amended by deleting the language "33-5-410" and substituting "52-5-411".

SECTION 133. Tennessee Code Annotated, Section 41-21-204(f)(1), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 134. Tennessee Code Annotated, Section 45-2-105(3), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging,".

SECTION 135. Tennessee Code Annotated, Section 49-2-115(b), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging,".

SECTION 136. Tennessee Code Annotated, Section 49-6-805(5), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 137. Tennessee Code Annotated, Section 49-6-6101, is amended by deleting the language "The state departments of education, mental health and substance abuse services, and intellectual and developmental disabilities" and substituting "The state departments of education, mental health and substance abuse services, and disability and aging"; and by deleting "intellectual and developmental disabilities" from subdivision (2) and substituting "disability and aging,".

SECTION 138. Tennessee Code Annotated, Section 49-8-802(a), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 139. Tennessee Code Annotated, Section 49-10-1306(f), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 140. Tennessee Code Annotated, Section 49-11-704(a)(1)(G), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 141. Tennessee Code Annotated, Section 56-1-211(a), is amended by deleting the language "created by § 71-2-104" and substituting "created by § 52-8-102".

SECTION 142. Tennessee Code Annotated, Section 56-1-211(b)(1), is amended by deleting the language "commission on aging and disability" and substituting "department of disability and aging".

SECTION 143. Tennessee Code Annotated, Section 56-2-125(d)(2)(B), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 144. Tennessee Code Annotated, Section 56-7-2903(b)(14), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 145. Tennessee Code Annotated, Section 63-1-702, is amended by deleting the language "intellectual and developmental disabilities" in subdivision (2) and substituting "disability and aging"; by deleting subdivision (7); and by deleting the language "fifteen (15) members" and substituting "fourteen (14) members".

SECTION 146. Tennessee Code Annotated, Section 63-7-102(10)(A), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 147. Tennessee Code Annotated, Section 63-11-206(g), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 148. Tennessee Code Annotated, Section 63-11-208(e), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 149. Tennessee Code Annotated, Section 63-11-220(c), is amended by deleting the language "33-5-402" and substituting "52-5-403".

SECTION 150. Tennessee Code Annotated, Section 63-11-307(c), is amended by deleting the language "department of intellectual and developmental disabilities (DIDD)" and substituting "department of disability and aging" and by deleting the language "guidelines of DIDD" and substituting "guidelines of the department of disability and aging".

SECTION 151. Tennessee Code Annotated, Section 67-4-2109(f)(2)(E), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 152. Tennessee Code Annotated, Section 67-6-322(a)(17), is amended by deleting the language "Tennessee commission on aging and disability" and substituting "department of disability and aging".

SECTION 153. Tennessee Code Annotated, Section 68-1-135(c), is amended by deleting the language "as defined in § 71-2-103" and substituting "as defined in § 52-8-101".

SECTION 154. Tennessee Code Annotated, Section 68-1-141(b), is amended by deleting the language "commission on aging and disability" and substituting "department of disability and aging".

SECTION 155. Tennessee Code Annotated, Section 68-1-143(b)(1)(D)(iii), is amended by deleting the subdivision and substituting:

(iii) In the case of a facility or provider licensed under title 52 for the provision of services for intellectual and developmental disabilities, aging services, and personal support services, the temporary suspension is effective only to the extent that the commissioner of disability and aging has concurred in the temporary suspension of the rule;

SECTION 156. Tennessee Code Annotated, Section 68-1-904(c), is amended by deleting the language "intellectual and developmental disabilities" wherever it appears in subdivisions (1) and (3) and substituting "disability and aging".

SECTION 157. Tennessee Code Annotated, Section 68-1-1202(11)(B)(ii), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 158. Tennessee Code Annotated, Section 68-5-402, is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 159. Tennessee Code Annotated, Section 68-11-201, is amended by deleting the language "department of intellectual and developmental disabilities" wherever it appears and substituting "department of disability and aging".

SECTION 160. Tennessee Code Annotated, Section 68-11-203(b)(1)(B), is amended by deleting the language "The executive director of the commission on aging and disability, or an employee of the commission on aging and disability, designated by the director" and substituting "The commissioner of disability and aging, or an employee of the department of disability and aging, designated by the commissioner".

SECTION 161. Tennessee Code Annotated, Section 68-11-203(c)(2)(B), is amended by deleting the language "the executive director of the commission on aging and disability" and substituting "the commissioner of disability and aging".

SECTION 162. Tennessee Code Annotated, Section 68-11-224, is amended by deleting the language "intellectual and developmental disabilities" wherever it appears in subdivisions (a)(10), (e)(1), and (e)(2) and substituting "disability and aging".

SECTION 163. Tennessee Code Annotated, Section 68-11-224(a)(10), is amended by deleting the language "ICF/ID homes and facilities or by agencies that are licensed under title 33" and substituting "intermediate care facilities for individuals with intellectual disabilities (ICF/IID), as defined by 42 CFR 442.1 et seq., or by agencies that are licensed under title 52".

SECTION 164. Tennessee Code Annotated, Section 68-11-224(c)(3)(A), is amended by deleting the language "or an ICF/MR facility licensed under title 33" and substituting "or an ICF/IID facility licensed under title 52".

SECTION 165. Tennessee Code Annotated, Section 68-11-224(e)(2), is amended by deleting the language "title 33" and substituting "title 52" and by deleting the language "ICF/ID" and substituting "ICF/IID".

SECTION 166. Tennessee Code Annotated, Section 68-11-815(b)(2), is amended by deleting the language "the Tennessee commission on aging and disability" and substituting "the commissioner of disability and aging".

SECTION 167. Tennessee Code Annotated, Section 68-11-830, is amended by deleting the language "intellectual and developmental disabilities" wherever it appears in subsections (a)-(c) and subdivision (d)(6)(B) and substituting "disability and aging" and by deleting the language "pursuant to title 33, chapter 2, part 4" in subsection (a) and substituting "pursuant to title 52, chapter 2, part 4".

SECTION 168. Tennessee Code Annotated, Section 68-11-1004(a)(1), is amended by deleting the language "A state agency under title 33, 37, 68 or 71" and substituting "A state agency under title 33, 37, 52, 68, or 71".

SECTION 169. Tennessee Code Annotated, Section 68-11-1605(1)(A), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 170. Tennessee Code Annotated, Sections 68-11-1609(f), 68-11-1614(c), and 68-11-1615, are amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 171. Tennessee Code Annotated, Section 68-11-1622(d)(7), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 172. Tennessee Code Annotated, Section 68-11-1625(a), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 173. Tennessee Code Annotated, Section 68-11-1702(a), is amended by deleting the language "Tennessee commission on aging and disability" and substituting "department of disability and aging".

SECTION 174. Tennessee Code Annotated, Section 68-55-102(a)(2)(B), is amended by deleting the language "intellectual and developmental disabilities" wherever it appears and substituting "disability and aging".

SECTION 175. Tennessee Code Annotated, Section 68-142-103(15), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 176. Tennessee Code Annotated, Section 71-1-112(b)(3), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 177. Tennessee Code Annotated, Section 71-1-129, is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 178. Tennessee Code Annotated, Section 71-1-135(a)(3), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 179. Tennessee Code Annotated, Sections 71-2-104(c)(1)(F), 71-2-118(a)(3)(A), and 71-3-507(g)(1)(A), are amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 180. Tennessee Code Annotated, Section 71-4-703(a)(1)(E), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".



SECTION 181. Tennessee Code Annotated, Section 71-5-105, is amended by deleting the language "department of intellectual and developmental disabilities" wherever it appears in subdivisions (b)(1) and (b)(2) and substituting "department of disability and aging".

SECTION 182. Tennessee Code Annotated, Section 71-5-152(a)(4), is amended by deleting the language "intellectual and developmental disabilities" and substituting "disability and aging".

SECTION 183. Tennessee Code Annotated, Section 71-5-164, is amended by deleting the language "commissioner of intellectual and developmental disabilities" wherever it appears in subsection (a) and substituting "commissioner of disability and aging" and by deleting the language "department of intellectual and developmental disabilities" wherever it appears in subdivision (c)(1), subdivision (c)(5), subsection (e), and subsection (f) and substituting "department of disability and aging".

SECTION 184. Tennessee Code Annotated, Section 71-5-901(6), is amended by deleting the language "The Tennessee commission on aging and disability" and substituting "Department of disability and aging".

SECTION 185. Tennessee Code Annotated, Section 71-5-1418, is amended by deleting the language "'Director' means the executive director of the commission on aging and disability;" and substituting "'Department' means the department of disability and aging;", by deleting the language "director" wherever it appears and substituting "department", and by deleting the language "71-2-103" in subdivision (b)(1) and substituting "52-8-101".

SECTION 186. Tennessee Code Annotated, Section 71-5-1419, is amended by deleting the language "commission on aging and disability" wherever it appears in subsections (d) and (e) and substituting "department of disability and aging" and by deleting the language "commission" in subsection (e) and substituting "department of disability and aging".

SECTION 187. Tennessee Code Annotated, Section 71-5-1422(a) and (b), is amended by deleting the language "commission on aging and disability" wherever it appears and substituting "department of disability and aging" and by deleting the language "commission" wherever it appears and substituting "department".

SECTION 188. Tennessee Code Annotated, Section 71-6-103(k)(2), is amended by deleting the language "department of intellectual and developmental disabilities" wherever it appears and substituting "department of disability and aging".

SECTION 189. Tennessee Code Annotated, Section 71-6-107(a)(5)(A), is amended by deleting the language "department of intellectual and developmental disabilities" and substituting "department of disability and aging".

SECTION 190. Tennessee Code Annotated, Section 71-6-113, is amended by deleting the language "intellectual and developmental disabilities" wherever it appears and substituting "disability and aging".

SECTION 191. Tennessee Code Annotated, Section 71-6-124(a)(1)(A), is amended by deleting the language "Tennessee commission on aging and disability" and substituting "department of disability and aging" and by deleting the language "commission" and substituting "department".

SECTION 192. Each member serving, as of June 30, 2024, on a board, commission, or council affected by this act shall continue to serve as a member on July 1, 2024, through to the end of the member's existing term.

SECTION 193. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act; however, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 194. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or

applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 195. This act takes effect July 1, 2024, the public welfare requiring it.