

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 679
HOUSE BILL 1487

AN ACT TO AMEND PART 4 OF ARTICLE 3 OF CHAPTER 143B OF THE GENERAL STATUTES TO REORGANIZE THE COMMISSION FOR MENTAL HEALTH SERVICES TO INCLUDE ADEQUATE REPRESENTATION FOR MENTALLY RETARDED CITIZENS.

Whereas, the Secretary of Human Resources has determined that the creation of a separate Division of Mental Retardation would represent a duplication of administrative overhead costs; and

Whereas, creation of a separate Division of Mental Retardation would be violative of the intent of State government to reduce the number of separate agencies, boards and commissions; and

Whereas, however, the Secretary of Human Resources has determined that there is a need for increased visibility, budget support and representation for the mental retardation programs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-147 is hereby rewritten to read as follows:

"§ 143B-147. Commission for Mental Health and Mental Retardation Services; creation, powers and duties. — (a) There is hereby created the Commission for Mental Health and Mental Retardation Services of the Department of Human Resources with the power and duty to adopt, amend and rescind rules and regulations to be followed in the conduct of State and local mental health, mental retardation and alcohol and drug treatment programs, in order to promote the amelioration or elimination of the mental health, mental retardation, or alcohol and drug abuse problems of the citizens of this State; however, such rules and regulations shall not be inconsistent with the provisions of this Article or other State laws. Specifically:

- (1) The Commission for Mental Health and Mental Retardation Services is authorized and empowered to adopt such rules and regulations that may be necessary and desirable for the treatment programs administered by the Department of Human Resources as provided in Chapter 122 of the General Statutes of North Carolina for the mentally retarded, mentally ill and inebriate, not inconsistent with the management responsibilities of the Secretary of Human Resources provided by Chapter 143B of the General Statutes of North Carolina and the Executive Organization Act of 1973.
- (2) The Commission for Mental Health and Mental Retardation Services shall have the power and duty to establish standards and adopt rules and regulations:
 - a. for the professional care of persons admitted to institutions, centers, or hospitals established in accordance with Chapter 122, including the authority to establish rules and regulations not contrary to law governing the admission of persons to any State institution, center or hospital under its jurisdiction which is now or may hereafter be established;

- b. for establishing minimum standards for local community alcoholism programs as a condition for participation in State grants-in-aid authorized by G.S. 122-7.1(b);
 - c. for the establishment and operation of area mental health authorities as prescribed in Article 2F of Chapter 122 of the General Statutes;
 - d. for the inspection and licensing of private hospitals for the mentally disordered as provided by G.S. 122-72;
 - e. for the licensing of all area or community mental health facilities of whatsoever nature, pursuant to Article 2F of Chapter 122 of the General Statutes.
- (3) The commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mental health or mental retardation or alcohol abuse programs which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.
- (4) The commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Board of Mental Health or the Commission for Mental Health Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health and Mental Retardation Services.
- (b) All rules and regulations adopted by the commission shall be enforced by the Department of Human Resources."

Sec. 2. G.S. 143B-148 is hereby rewritten to read as follows:

"§ 143B-148. Commission for Mental Health and Mental Retardation Services; members; selection; quorum; compensation. — (a) The Commission for Mental Health and Mental Retardation Services of the Department of Human Resources shall consist of 15 members, two of whom shall be members of the General Assembly, with concern for the problems of mental illness, mental retardation, and alcohol and drug abuse, and 13 of whom shall be citizens appointed by the Governor. Of the two members from the General Assembly, one shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the President of the Senate, each to serve two-year terms commencing on July 1 of each odd-numbered year. The commission membership shall include the following persons appointed by the Governor:

- (1) two citizens who are either a parent or guardian of a mentally retarded citizen;
- (2) one mental retardation professional as defined in G.S. 122-36(i);
- (3) two citizens who are concerned with the problems in the field of mental health care for the mentally ill;
- (4) one mental health professional as defined in G.S. 122-36(h);
- (5) two citizens who represent State or local citizen organizations which are concerned with the problems of alcohol or drug abusers;
- (6) one professional in the field of drug or alcohol abuse, including, but not limited to professional social workers, registered nurses, medical doctors, and psychologists; and
- (7) any four citizens who, in the Governor's sound discretion, would be an asset to the Commission for Mental Health and Mental Retardation Services in carrying out its duties.

At least one of the Governor's appointees shall be an attorney licensed to practice law in the State and one a medical doctor licensed to practice medicine in the State.

The Governor shall select his 13 appointees to insure that all sections of the State have representation on the commission. Notwithstanding the provisions of G.S. 143B-13(a) relating to existing commission members, the Governor shall appoint members to the commission in accordance with the foregoing membership requirements. At the initial formation of the Commission for Mental Health and Mental Retardation Services, the Governor shall designate four of his appointees to serve for two years, four to serve three years, five to serve four years, all terms to commence on July 1, 1977. Thereafter the term of all commission members appointed by the Governor shall be four years. All commission members shall serve their designated term and until their successors are duly appointed and qualified.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 relating to appointment, qualifications, terms, and removal of members shall apply to all members of the Commission for Mental Health and Mental Retardation Services. G.S. 143B-13(c) shall not apply to commission members who are also members of the General Assembly.

(c) Commission members who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1(b) and (c). Commission members who are employees of the State shall receive travel allowances at the rates set forth in G.S. 138-6. All other commission members shall receive per diem compensation and travel expenses at the rate set forth in G.S. 138-5.

(d) A majority of the commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the commission shall be supplied by the Secretary of Human Resources."

Sec. 3. G.S. 143B-149 is hereby rewritten to read as follows:

"§ 143B-149. Commission for Mental Health and Mental Retardation Services; officers. — The Commission for Mental Health and Mental Retardation Services shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the commission and shall serve for a term of two years or until the expiration of his regularly appointed term."

Sec. 4. G.S. 143B-150 is hereby rewritten to read as follows:

"§ 143B-150. Commission for Mental Health and Mental Retardation Services; regular and special meetings. The Commission for Mental Health and Mental Retardation Services shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least eight members."

Sec. 5. G.S. 143B-140, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by striking the phrase "Commission for Mental Health Services" on line 4 of that section and by substituting the phrase "Commission for Mental Health and Mental Retardation Services" therefor.

Sec. 6. G.S. 143B-140, as the same appears in the 1975 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by striking the phrase "Division of Mental Health Services" on line 17 of that section and by substituting the phrase "Division of Mental Health and Mental Retardation Services" therefor.

Sec. 7. Whenever the words "Commission for Mental Health Services" or "Commission", which by its context refers to the "Commission for Mental Health Services", are used or appear in any statute or law of this State, they shall be deleted and the words "Commission for Mental Health and Mental Retardation Services" shall be substituted therefor if appropriate to the context. Such change will be made in, including, but not limited to, the following areas of the General Statutes: G.S. 122-1.2, line 5; G.S. 122-3, line 1; G.S. 122-4, lines 1 and 2; G.S. 122-7.1 as the same appears in the 1975 Cumulative Supplement to Volume

3B, lines 4 and 5; G.S. 122-7.2, lines 7 and 8; G.S. 122-12, lines 1 and 2; G.S. 122-13, line 1; G.S. 122-16.1(a), lines 11 and 12; G.S. 122-16.1(b), lines 1 and 2; G.S. 122-16.1(d), line 1; G.S. 122-35.6, line 3 of paragraph 3; G.S. 122-35.18(1), lines 2 and 3; G.S. 122-35.19, line 1; G.S. 122-35.20(e) as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 1 and 10; G.S. 122-35.21, line 8; G.S. 122-35.26, lines 5, 7, and 15; G.S. 122-35.33 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 4, 7, and 11; G.S. 122-35.34 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 5, 6, and 8; G.S. 122-39, line 17; G.S. 122-69, lines 9 and 13; G.S. 122-70, line 5; G.S. 122-72(b), line 6; G.S. 122-72(c), line 14; G.S. 122-72(d), line 6; G.S. 122-72(e), line 4 and G.S. 122-83 as the same appear in the 1975 Cumulative Supplement to Volume 3B, line 7; and at all appropriate places in Article 2F of Chapter 122.

Sec. 8. Whenever the words "Division of Mental Health Services" or "Division", which by its context refers to the "Division of Mental Health Services", are used or appear in any statute or law of this State, they shall be deleted and the words "Division of Mental Health and Mental Retardation Services" shall be substituted therefor if appropriate to the context. Such change will be made in, including, but not limited to, the following areas of the General Statutes: G.S. 122-58.4(c) as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 15; G.S. 122-58.16 as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 2; G.S. 122-84.1 as the same appears in the 1975 Cumulative Supplement to Volume 3B, line 14, and G.S. 122-85 as the same appears in the 1975 Cumulative Supplement to Volume 3B, lines 13 and 14.

Sec. 9. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of June, 1977.