

ENROLLED
HB1348ER

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 51.5-37 of the Code of Virginia, relating to persons with mental retardation, developmental disabilities or mental illness.

[H 1348]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 51.5-37 of the Code of Virginia is amended and reenacted as follows:

§ 51.5-37. Powers and duties.

The Department shall have the following powers and duties:

1. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of Virginia;

2. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To this end, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable;

3. To monitor the implementation of Chapter 9 (§ 51.5-40 et seq.) of this title and to render assistance to persons with disabilities in the protection of the rights of persons with disabilities under the laws of the Commonwealth and of the United States;

4. To employ mediation procedures to the maximum extent possible to resolve complaints concerning violations of rights of persons with disabilities, when those rights are related to such disabilities. When such procedures fail, the Department shall have the authority to pursue legal, administrative, and other appropriate remedies to protect the rights of persons with disabilities, when those rights are related to such disabilities; however, no counsel shall be hired by the Department under the provisions of this chapter without the express approval of the Attorney General; and

5. To promulgate such regulations necessary to implement § 51.5-40 of this title and to do all other acts necessary or convenient to carry out the purposes of this chapter and Chapter 9 (§ 51.5-40 et seq.) of this title;

6. To access facilities and institutions as defined in §§ 37.1-1 and 37.1-179, and all other facilities and institutions that provide care or treatment to individuals with disabilities. Reasonable access shall be granted for the purposes of conducting investigations of allegations of abuse or neglect, and performing such other activities as necessary to monitor the care and treatment provided to and to protect the rights of individuals with disabilities;

7. To access records of facilities and institutions as defined in §§ 37.1-1 and 37.1-179, and all other facilities and institutions that provide care or treatment to individuals with disabilities regarding the commitment, care, treatment, and habilitation of such individuals, unless the disclosure of such records is specifically prohibited by federal law. Records that are confidential under federal or state law shall be maintained as confidential by the Department, and shall not be further disclosed, except as permitted by law; however, there shall be no right of access to privileged communications pursuant to § 8.01-581.17; and

8. To access, for the purposes of inspection and copying, the records of an individual with a disability (i) who by reason of his mental or physical condition is unable to authorize the Department to have such access; (ii) who does not have a legal guardian or for whom the Commonwealth, or a designee of the Commonwealth, is the legal guardian; and (iii) with respect to whom a complaint has been received by the Department or with respect to whom there is probable cause to believe that such person has been subjected to abuse or neglect. The director of the facility or institution shall disclose the name, address, and telephone number of any legal guardian or authorized representative.