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SENATE BILL NO. 400

Offered January 21, 2000

A BILL to amend and reenact § 2.1-373.12 of the Code of Virginia, relating to the duties of the Department for the Aging.

Patron—Trumbo

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.1-373.12 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-373.12. Powers and duties of the Department.

A. The Department shall fund from appropriations received for such purpose a statewide system of local or regional public guardian and conservator programs.

B. The Department shall:

1. Make and enter into all contracts necessary or incidental to the performance of its duties and in furtherance of the purposes as specified in this article in conformance with the Public Procurement Act (§ 11-35 et seq.).

2. Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia Public Guardian and Conservator Programs in those cases in which a court, pursuant to § 37.1-134.14:1, determines that a person is eligible to have a public guardian or conservator appointed.

3. Promulgate reasonable regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) as appropriate to implement, administer and manage the state and local or regional programs authorized by this article, including, but not limited to: adoption of minimum training and experience requirements for volunteers and professional staff of the local and regional programs; adoption of an ideal range of staff to client ratios for the programs; adoption of procedures to be followed whenever a local or regional program falls below or exceeds the ideal range of staff to client ratios, which shall include, but not be limited to, procedures to ensure that services shall continue to be available to those in need and that appropriate notice is given to the courts, sheriffs, where appropriate, and the Department; and adoption of procedures governing disqualification of any program falling below or exceeding the ideal range of staff to client ratios, which shall include a process for evaluating any program which has exceeded the ratio to assess the effects falling below or exceeding the ideal range of ratios has had or is having upon the program and upon the incapacitated persons served by the program. The regulations shall require that such evaluations occur no less frequently than every six months and shall continue until the staff to client ratio returns to within the ideal range.

4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia Public Guardian and Conservator Programs from any other guardian or conservator program operated by the entity with whom the Department contracts, specifically addressing the need for such separation in programs that may be fee-generating.

5. Establish record-keeping and accounting procedures to ensure that each local or regional program (i) maintains confidential, accurate and up-to-date records of the personal and property matters over which it has control for each incapacitated person for whom it is appointed guardian or conservator and (ii) files with the Department an account of all public and private funds received.

6. Establish criteria for the conduct of and filing with the Department and as otherwise required by law: values history surveys, annual decisional accounting and assessment reports, the care plan designed for the incapacitated person and such other information as the Department may by regulation require.

7. Establish criteria to be used by the local and regional programs in setting priorities with regard to services to be provided.

8. Take such other actions as are necessary to ensure coordinated services and a reasonable review of all local and regional programs.

9. Maintain statistical data on the programs and report to the General Assembly on or before January 1 of each year as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents regarding the status of the Virginia Public Guardian and Conservator Program and the developing trends with regard to the need for guardians, conservators and other types of surrogate decision-making services. *In addition, the Department shall enter into a contract with an appropriate research entity with expertise in gerontology, disabilities and public administration to conduct an evaluation of local public guardian and conservator programs from funds specifically allocated for this purpose, and the evaluator shall provide a report with recommendations to the*

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60 *Department and to the Public Guardian and Conservator Advisory Board by December 1, 2001. Trends*
61 *identified in the report shall be presented to the General Assembly. The Department shall request such a*
62 *report from an appropriate research entity every four years as the General Assembly may designate*
63 *funds for that purpose.*

64 10. Recommend appropriate legislative or executive actions.

65 C. Nothing in this article shall prohibit the Department from contracting pursuant to subdivision B 2
66 of this section with an entity which may also provide privately funded surrogate decision-making
67 services, including guardian and conservator services funded with fees generated by the estates of
68 incapacitated persons, provided such private programs are administered by the contracting entity entirely
69 separately from the local or regional Virginia Public Guardian and Conservator Programs, in conformity
70 with regulations established by the Department in that respect.

71 D. In accordance with the Public Procurement Act (§ 11-35 et seq.) and recommendations of the
72 Board, the Department may contract with a not-for-profit private entity which does not provide services
73 to incapacitated persons as guardian or conservator to administer the program, and, if it does, the term
74 "Department" when used in this article shall refer to the contract administrator.