

Amendment No. 1 to HB2089

Terry  
Signature of Sponsor

**AMEND Senate Bill No. 2098**

**House Bill No. 2089\***

by deleting subdivision (13) in § 52-1-101 of Section 2 and substituting:

(13) "Person supported" means a person who is an individual who qualifies or may qualify for programs or supports through the department;

**AND FURTHER AMEND** by deleting subdivision (16) in § 52-1-101 of Section 2 and substituting:

(16) "Support" means any activity or resource that enables a person supported to participate in a service or program through the department; and

**AND FURTHER AMEND** by deleting subsection (a) in § 52-1-104 of Section 2 and substituting:

(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;

(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; and

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

**AND FURTHER AMEND** by deleting subdivision (b)(4) in § 52-1-104 of Section 2 and substituting:

(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, as well as research, pilot projects, and programs designed to promote and encourage healthy aging. Pilot projects are subject to other state and federal laws;

**AND FURTHER AMEND** by deleting subdivision (b)(12) in § 52-1-104 of Section 2 and substituting:

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

**AND FURTHER AMEND** by deleting "central and regional office personnel, and all professional, technical, and other" in subdivision (b)(1) in § 52-1-105 of Section 2.

**AND FURTHER AMEND** by deleting subdivision (b)(4) in § 52-1-105 of Section 2 and renumbering the remaining subdivisions accordingly.

**AND FURTHER AMEND** by deleting the language "individuals with an intellectual or developmental disability" and substituting "individuals with a disability or for older persons" in subsection (a) in § 52-1-106 of Section 2.

**AND FURTHER AMEND** by deleting the language "intellectual and developmental disability" and substituting "disability and aging" in subdivision (a)(8) in § 52-1-106 of Section 2.

**AND FURTHER AMEND** by deleting the heading "Chapter 2 - Services for Individuals with Intellectual or Developmental Disabilities and Facilities" and substituting "Chapter 2 - Services and Facilities" in Section 2.

**AND FURTHER AMEND** by deleting subsection (a) in § 52-2-201 of Section 2 and substituting:

(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 each of the three (3) grand divisions of the state, as defined in title 4, chapter 1, part 2. For purposes of the state developmental disabilities planning and policy council, "persons supported" means an individual with a developmental disability. For purposes of the regional citizen-based planning and policy councils, "persons supported" means an individual with an intellectual or developmental disability.

**AND FURTHER AMEND** by deleting subsection (b) in § 52-2-202 of Section 2 and removing the subsection (a) designation in § 52-2-202 of Section 2.

**AND FURTHER AMEND** by deleting "; and" at the end of subdivision (b)(9) in § 52-2-403 of SECTION 2 and substituting ";".

**AND FURTHER AMEND** by deleting the period at the end of subdivision (b)(10) in § 52-2-403 of SECTION 2 and substituting "; and".

**AND FURTHER AMEND** by adding the following as a new subdivision (b)(11) in § 52-2-403 of SECTION 2:

(11) An area agency on aging and disability, as defined in § 52-8-101.

**AND FURTHER AMEND** by deleting "disability and aging services" and substituting "intellectual or developmental disabilities" in subdivision (d)(2)(C) in § 52-2-403 of Section 2.

**AND FURTHER AMEND** by deleting subsection (a) in § 52-2-412 of Section 2 and substituting:

(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, services to older persons and adults with disabilities, or personal support services within the meaning of this title without having obtained a license as required under this title 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.

**AND FURTHER AMEND** by deleting subsection (a) in § 52-2-417 of Section 2 and substituting:

(a) If the commissioner finds that a service or facility is providing intellectual or developmental disability services, services to older persons and adults with disabilities, or personal support services without a license as required under this title, then the commissioner may, without prior notice, order the service or facility immediately to cease and desist from providing intellectual or developmental disability services, services to older persons and adults with disabilities, 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.

**AND FURTHER AMEND** by deleting the first sentence of § 52-2-502 of Section 2 and substituting "The department shall, at least annually, convene a meeting on transportation services for persons with an intellectual or developmental disability and for older persons.".

**AND FURTHER AMEND** by deleting "The commissioner, with the approval of the comptroller of the treasury and the commissioner of finance and administration" and substituting "The commissioner, in consultation with the comptroller of the treasury and with the approval of the commissioner of finance and administration" in subsection (a) of § 52-2-901 of Section 2.

**AND FURTHER AMEND** by deleting "The commissioner, with the approval of the comptroller of the treasury and the commissioner of finance and administration" and substituting "The commissioner, in consultation with the comptroller of the treasury and with the approval of the commissioner of finance and administration" in subsection (a) of § 52-2-902 of Section 2.

**AND FURTHER AMEND** by adding "For purposes of this section, "person supported" does not include persons receiving services under the public guardianship program for the elderly authorized by § 34-7-103." immediately after the last sentence in § 52-2-906 of Section 2.

**AND FURTHER AMEND** by adding "For purposes of this section, "person supported" does not include persons receiving services under the public guardianship program for the elderly authorized by § 34-7-103." immediately after the last sentence in § 52-2-907 of Section 2.

**AND FURTHER AMEND** by deleting subdivision (a)(4) in § 52-2-909 of Section 2 and substituting:

(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 developed in consultation with the comptroller of the treasury and approved by the commissioner of finance and administration, that the state's interests are best served by accepting payment offered as full satisfaction of the person supported's liability.

**AND FURTHER AMEND** by adding a new subsection (c) in § 52-2-909 of Section 2:

(c) For purposes of this section, "person supported" does not include persons receiving services under the public guardianship program for the elderly authorized by § 34-7-103.

**AND FURTHER AMEND** by deleting subsection (a) in § 52-2-1002 of Section 2 and substituting:

(a) Each facility or entity providing a service licensed under this title, each area agency on aging, and each facility or entity that is a contractor, grantee, or subcontractor with the state or the state's agents for services provided by the department's division of the commission on aging and disability 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.

**AND FURTHER AMEND** by deleting the first sentence of subsection (d) in § 52-3-101 of Section 2 and substituting "The department shall keep records detailing services or supports received by each person with an intellectual or developmental disability."

**AND FURTHER AMEND** by deleting ", except in" in the first sentence of § 52-3-114 of Section 2.

**AND FURTHER AMEND** by deleting "Judicial" in subdivision (1) in § 52-3-114 of Section 2 and substituting "In judicial".

**AND FURTHER AMEND** by deleting "Guardianship" in subdivision (3) in § 52-3-114 of Section 2 and substituting "In judicial".

**AND FURTHER AMEND** by deleting "division of TennCare" where it appears twice in subsection (a) in § 52-5-107 of Section 2 and substituting "bureau of TennCare".

**AND FURTHER AMEND** by deleting subdivision (b)(1) in § 52-5-602 of Section 2 and substituting:

(1) Identification of common areas of concern to be addressed in the grand divisions of the state, as defined in title 4, chapter 1, part 2;

**AND FURTHER AMEND** by deleting "service areas" in subdivision (b)(4) in § 52-5-602 of Section 2 and substituting "grand divisions of the state, as defined in title 4, chapter 1, part 2".

**AND FURTHER AMEND** by deleting "and adults with disabilities" in subdivision (5) in § 52-8-101 of Section 2.

**AND FURTHER AMEND** by deleting the first sentence of subdivision (c)(1) in § 52-8-102 of Section 2 and substituting "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 that are established in accordance with the Older Americans Act (42 U.S.C. § 3026)."

**AND FURTHER AMEND** by adding the following new subsections in § 52-8-102 of Section 2:

(d) The governor may ask the nominating body in any case for additional nominees.

(e) As vacancies occur on the commission, persons must be appointed to fill the vacancy for the unexpired term, in accordance with the original nomination process.

(f)

(1) Members appointed to serve on the commission pursuant to this section must be appointed in accordance with the criteria established in this section. Members of the commission as it existed prior to October 1, 2012, may be eligible for nomination and appointment pursuant to the criteria established in this section.

(2) The terms of office for members of the commission must be six (6) years, except for members of the governor's personal staff and cabinet whose terms are coterminous with that of the appointing governor, and except for the legislators appointed pursuant to subdivision (c)(9) whose terms are coterminous with the terms for which the legislators have been elected to the general assembly. Vacancies must be filled by appointment pursuant to the criteria in this section only for the remainder of the unexpired term.

(3) A two-year absence from commission membership qualifies any member for reappointment who satisfies the criteria of this section.

**AND FURTHER AMEND** by deleting subdivision (a)(1) in § 52-8-202 of Section 2 and renumbering the remaining subdivisions accordingly.

**AND FURTHER AMEND** by deleting "subdivision (a)(8)" and substituting "subdivision (a)(7)" in subsection (b) in § 52-8-202 of Section 2.

**AND FURTHER AMEND** by deleting "commission" in subdivision (b)(3) in § 52-8-203 of Section 2 and substituting "department".

**AND FURTHER AMEND** by deleting "one (1) council member must be the executive director of the health facilities commission or the executive director's designated representative" and substituting "one (1) council member must be from the department of health" in subdivision (d)(5) of Section 3.

**AND FURTHER AMEND** by deleting subsection (h) of Section 3 and substituting:

(h) By January 15, 2020, 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. No later than January 15, 2027, and no later than January 15 every three (3) years thereafter, the council shall submit an updated report.

**AND FURTHER AMEND** by deleting subdivision (c)(1)(N) of Section 4 and renumbering the remaining subdivisions accordingly.

**AND FURTHER AMEND** by deleting "appointed under subdivisions (c)(1)(C)-(P)" in subdivision (d)(2) of Section 4 and substituting "in subdivisions (c)(1)(C)-(O)".

**AND FURTHER AMEND** by deleting the last sentence in subsection (p) of Section 4 and substituting "No later than January 15, 2027, and no later than January 15 every three (3) years thereafter, the council shall update the plan and report to the chairs of such legislative committees on its progress.".

**AND FURTHER AMEND** by adding a new subsection (q) in Section 4:

(q) The council may create subcommittees to undertake special studies as the council deems necessary.

**AND FURTHER AMEND** by deleting Section 106 and substituting:

Section 106. Tennessee Code Annotated, Section 4-3-2702, is amended by deleting the language "department of intellectual and developmental disabilities" in subsection (a) and substituting "department of disability and aging", and by deleting the language "in the area of intellectual or developmental disabilities" in subsection (c) and substituting "in the area of disability or aging".

**AND FURTHER AMEND** by deleting Section 114 and substituting:

Section 114. Tennessee Code Annotated, Section 4-29-247(a), is amended by adding a new subdivision:



( ) Department of disability and aging, created by § 4-3-101 and § 4-3-2701.

**AND FURTHER AMEND** by deleting Section 193 and substituting:

(a) 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.

(b) The Tennessee Code Commission is authorized to change any references to the department of intellectual and developmental disabilities in Tennessee Code Annotated to the department of disability and aging.