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AMENDED--NOT PRINTED IN THE HOUSE

Amt. No. 1 (4997C002.CC.VR22.docx)

March 10, 2022

**H. 4997**

Introduced by Reps. Herbkersman, West, B. Cox, Rutherford, W. Newton, Wooten, Caskey, Huggins and Ballentine

S. Printed 2/24/22--H.

Read the first time February 17, 2022.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO TRANSFER FROM THE SOUTH CAROLINA MENTAL HEALTH COMMISSION THE AUTHORITY AND RESPONSIBILITY FOR ESTABLISHING VETERANS NURSING HOMES AND TO DEVOLVE THOSE SAME DUTIES, RESPONSIBILITIES, AND FUNCTIONS UPON THE DEPARTMENT OF VETERANS’ AFFAIRS; BY ADDING ARTICLE 7 TO CHAPTER 11, TITLE 25 SO AS TO AUTHORIZE THE DEPARTMENT OF VETERANS’ AFFAIRS TO ESTABLISH AND OPERATE VETERANS NURSING HOMES; TO AMEND SECTION 43‑35‑520, RELATING TO VULNERABLE ADULT FATALITY INVESTIGATIONS, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTIONS 44‑11‑30 AND 44‑11‑40 RELATING TO VETERANS NURSING HOMES ESTABLISHED BY THE SOUTH CAROLINA MENTAL HEALTH COMMISSION.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) On July 1, 2023, the responsibility and authority to establish and operate veterans nursing homes is transferred from the South Carolina Mental Health Commission, and these duties, responsibilities, and functions are devolved upon the Department of Veterans’ Affairs.

(B)(1) The Department of Veterans’ Affairs shall oversee the transition of the veterans nursing home program from the Department of Mental Health to the Department of Veterans Affairs.

(2) The Department of Mental and the Department of Veterans’ Affairs shall work together at all stages of the process until the transition is complete.

(3) The Department of Mental Health shall immediately begin the reorganization of the veterans nursing home program consistent with any plans the Department of Veterans’ Affairs may have in place.

(4) The Department of Mental Health and the Department of Veterans Affairs shall provide monthly reports to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee on the status of the transition through completion.

(C) The employees, authorized appropriations, and assets and liabilities of the South Carolina Mental Health Commission and the Department of Mental Health designated for the establishment and operation of veterans nursing homes are transferred to the Department of Veterans’ Affairs. Classified or unclassified personnel employed by the South Carolina Mental Health Commission or the Department of Mental Health to perform duties related to establishment or operation of veterans nursing homes on the effective date of this act, either by contract or by employment at will, shall become employees of the Department of Veterans’ Affairs with the same employment status, compensation, classification, and grade level as applicable.

(D) Applicable regulations promulgated by the South Carolina Mental Health Commission or the Department of Mental Health are continued and are considered to be promulgated by the Department of Veterans’ Affairs.

(E) The Code Commissioner is directed to change or correct all references to the South Carolina Mental Health Commission and the Department of Mental Health relating to veterans nursing homes to the Department of Veterans’ Affairs.

SECTION 2. Chapter 11, Title 25 of the 1976 Code is amended by adding:

“Article 7

South Carolina Veteran Homes

Section 25‑11‑710. The Department of Veterans’ Affairs, in mutual agreement with the authorities of the United States Veterans Administration, may establish and operate South Carolina veterans homes on grounds owned by the Department of Veterans’ Affairs to provide treatment for South Carolina veterans who require long‑term nursing care. The Department of Veterans’ Affairs is designated as the agency of the State to apply for and to accept gifts, grants, and other contributions from the federal government or from any other governmental unit for the operation and construction of South Carolina veterans homes.

Section 25‑11‑720. For purposes of this article, ‘South Carolina veteran’ means a South Carolina resident who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. A reservist or member of the National Guard called to Federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a veteran.”

SECTION 3. A. Section 43‑35‑10(4) of the 1976 Code is amended to read:

“(4) ‘Facility’ means a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health, the Department of Veterans’ Affairs, or the Department of Disabilities and Special Needs.

B. Section 43‑35‑520 of the 1976 Code is amended to read:

“Section 43‑35‑520. The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, created pursuant to Section 23‑3‑810, shall, in addition to its investigation responsibilities under that section or Article 1, investigate cases of vulnerable adult fatalities in facilities operated or contracted for operation by the Department of Mental Health, the Department of Veterans’ Affairs, or the Department of Disabilities and Special Needs. Provided, that in a nursing home, as defined in Section 44‑7‑130, contracted for operation by the Department of ~~Mental Health~~ Veterans’ Affairs, the Vulnerable Adults Investigations Unit shall investigate those fatalities for which there is suspicion that the vulnerable adult died as a result of abuse or neglect, the death is suspicious in nature, or the death is referred by a coroner or medical examiner as provided in Section 43‑35‑35(A). In the event that a coroner rules that the death of an individual in a veterans’ nursing home under the authority of the Department of ~~Mental Health~~ Veterans’ Affairs results from natural causes, the State Law Enforcement Division is not required to conduct an investigation regarding the individual’s death.”

SECTION 4. Sections 44‑11‑30 and 44‑11‑40 of the 1976 Code are repealed.

SECTION 5. This act takes effect upon approval of the Governor. To ensure the efficient transition of the operation of veterans nursing homes from the Department to Mental Health to the Department of Veterans’ Affairs upon the effective date of the act, the Department of Mental Health and the Department of Veterans’ Affairs may begin completion of the tasks enumerated in SECTION 1.B.

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