

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on February 4, 1998 in Room 423-S-of the State Capitol.

All members were present except: Representative Gerald Geringer - excused

Committee staff present: Robin Kempf, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Dr. William Murphy, Cardiovascular Surgeon, Wichita, on behalf of American Heart Association  
Jerry Cunningham, Phillips County Emergency Medical Services  
Michael Cumley, American Heart Association Basic Life Instructor  
Connie McAdam, President, Kansas Emergency Medical Services Association

Others attending: See Guest List (Attachment 1)

Chairperson Mayans called the meeting to order and noted that **HB 2784** (state health care benefits system; eligibility); **HB 2794** (behavioral sciences regulatory board; licensure); and **SB 425** (hospitals; critical access hospitals and rural health networks) have been assigned to this committee. He also noted that he has requested that **HB 2784** be re-referred to the Insurance Committee since the issues better fit that committee.

The Chairperson then opened the hearing on **HB 2723** (use of automatic defibrillators by certain persons). Dr. William Murphy, a cardiovascular surgeon in Wichita, appeared on behalf of the American Heart Association, Kansas Affiliate, in support of the bill. (See testimony, Attachment 2.) Dr. Murphy described the benefits of training lay people to use Automatic External Defibrillators in cardiac emergencies. Jerry Cunningham, Phillips County Emergency Services, demonstrated the use of an AED machine. Dr. Murphy said early defibrillation and early advance care may determine whether one lives or dies. Dr. Murphy also noted that the written testimony of Lester Richardson, EMS MED-ACT, Olathe, has been handed each committee member (see Attachment 3). Dr. Murphy offered an amendment to Section 1(a) to insure that properly trained people will have use of defibrillators. (See Attachment 4.)

Michael Cumley, an American Heart Association Basic Life Instructor, testified for the bill, using his classroom experiences to display the desire of medical professionals to also use defibrillators. He noted that businesses are interested also in having the machine and having employees trained to use them. Several manufacturing plants already have the machines and trained technicians to use them. (See testimony, Attachment 5.)

Connie McAdam, President of the Kansas Emergency Medical Services Association, Clay Center, testified in support of the bill that the association believes a properly implemented program of public access to defibrillation can improve the outcome of many people who suffer sudden cardiac arrest. Ms. McAdam noted that the association is suggesting that the program include an assurance that physicians will provide oversight at the local level and that local EMS agencies are notified of start-up programs to insure a smooth transition into the EMS system. (See testimony, Attachment 6.)

There were no others present to testify either in support or opposition to the bill, so the hearing was closed. Some questions were raised by committee members.

Representative Showalter asked Dr. Murphy how the machines are kept in calibration. He answered that the manufacturers provide the training and follow up services. Representative Showalter asked Connie McAdam if EMS responds to a call and a defibrillator has been used, are the pads and electric leads compatible to the different brands of the machines. Ms. McAdam answered not always but that some companies now make converters, but they cause a delay in changeover of machines. (The gel has to be cleaned off before a new patch can be placed.)

Mr. Cumley noted that the cost of the machines runs from \$3,000 to \$4,000 per unit, depending on the manufacturer and accessories purchased. The machines are not to be used on children nor anyone who weighs less than 90 pounds. The machines also automatically analyzes the heart rhythm and decides whether to shock, and if so, charges the machine and tells when to hit the red button to defibrillate. Mr. Furse asked what prevents anyone from buying and using the machine. Dr. Murphy stated under current law, EMS training and certification is required to use them. Representative Hutchins asked if there is a limit as to where the machines can be located. Dr. Murphy said the expense of the machine may be the deterrent to some, but if

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol, at 1:30 p.m. on February 4, 1998

purchased and someone is certified to operate it, the machine can be anywhere.

Chairperson Mayans, noting no others were present to testify in support or opposition to **HB 2723**, closed the hearing. He suggested that those who testified today, should meet some time soon to discuss any differences or changes to the bill, advise him, and perhaps the committee can work the bill next week.

Chairperson Mayans then suggested that the committee may want to take action on bills previously heard. First considered was **SCR 1613** (establishing a task force on long-term care services). Mr. Furse reminded the committee that it had discussed amending page 1 of the resolution, on line 35, relating to the make up of the consumers to be appointed and the make up of those appointed from providers; and on page 2, line 21, to change the report date to January 11, 1999 to coincide with the first day of the 1999 Legislature. (See Attachment 7) for those suggested changes. After discussion, on motion of Representative Haley, seconded by Representative Henry, the committee approved the amendments shown on Attachment 7.

Further discussion was held on the amendments to **SCR 1613**, and on motion of Chairperson Mayans, seconded by Representative Showalter, the two amendments to page 1, line 35 (as shown on Attachment 6) were further amended as shown on Attachment 7. The motion carried. Thereupon, Chairperson Mayans moved, and Representative Haley seconded, that **SCR 1613** be passed as amended. The motion carried. Representative Horst will carry the bill on the floor of the House.

Mr. Furse then offered balloon amendments, suggested at the bill's hearing by the Chief Attorney of the Department of Administration, to **HB 2607** (state long-term care ombudsman, powers, duties and functions). (See Attachment 8.) Chairperson Mayans stated he, Representative Geringer and Representative Henry served on the Health Care Oversight Committee during the interim and that the committee worked very hard to develop the bill. Then this committee held a hearing on it on January 20 and 26, 1998, and Chairperson Mayans noted that the suggested amendments from those hearings, at his suggestion, were reviewed by Preston Barton, Director, Kansas Council for Developmental Disabilities, who has since written his agreement with those amendments. Chairperson Mayans also noted that Sandra Strand, Kansas Advocates for Better Care, had suggested amending the section concerning confidentiality of records. It was Representative Mayans thought that her amendment should probably be given to the Senate Public Health and Welfare Committee for consideration. Representative Long asked if the amendments changed the fiscal note. Mr. Furse answered that it appears the amendments will not materially affect the note. If amendments are adopted, the appropriations will be made to the new separate agency.

Representative Henry moved, seconded by Representative Morrison, that the committee accept the balloon amendments shown on Attachment 8. The motion carried.

Further discussion was held about section 12 of the bill, and on motion of Representative Flaharty, seconded by Representative Showalter, **HB 2607** was amended in Section 12, line 31, after the word "environment," by deleting the word "and"; and in line 32, after the word "services," by adding "and the department on aging." The motion carried. On motion of Representative Morrison, seconded by Representative Hutchinson, the committee passed **HB 2607**, as amended. Representative Henry will carry the bill on the floor of the House.

Chairperson Mayans announced that due to the hour, **HB 2669** will be acted on at a later meeting. He announced that the two subcommittees on Dental Practices and Mental Health Professionals will meet on Monday and Thursday, February 9 and 12; and the full committee will meet on Tuesday and Wednesday, February 10 and 11.

The meeting was adjourned at 2:55 p.m.

The next meeting is scheduled for February 5, 1998.

HOUSE COMMITTEE ON  
HEALTH AND HUMAN SERVICES GUEST LIST  
FEBRUARY 4, 1998

NAME	REPRESENTING
Joy M. Allen	Alzheimer's Assoc.
Mae Fields	Alzheimer's Assoc.
Robert Lemsky	Alzheimer's Assoc.
Dina Gott	Alzheimer's Assoc.
Michael Finley	Am. Heart Assoc.
Connie McAdam	KANSAS EMS Association
Gary Cunningham	American Heart Assoc. - Shellys Co EMS
Janice Basshaw	American Dental Assoc.
Rob Reschke	Kansas Div of Emergency Management
Jandra Wohler	Alzheimer's Assoc.
Sharon Stark	Alzheimer's Assoc.
Susan Anderson	Hein + Weir
Rick Pittner	Health Midwest
Marty Yost	Ks Health Care Assn.
Ann Barnes	DOB
Marcene Grimes	Alzheimer's Assn - Jopoka
Edo McDonald	Board of EM
William Murphy MD.	American Heart Association

**HOUSE COMMITTEE ON  
HEALTH AND HUMAN SERVICES GUEST LIST  
FEBRUARY 4, 1998**

NAME	REPRESENTING
Cathy Dune	KDHE
Henry Slaughter	KMS
Preston Barton	DD Council
Meg Draper	KS Medical Society
John Federico	Sterling House
Sandy Strand	KABC
Christie Brough	Alzheimer's Assn.
Amy Higginth	NP
Pat McMillip	KSBN
Rick Jensen	Alz. Assn / Midwest Health
Pat Johnson	Bd of Nursing
Carolyn Maddendat	KSWA
Jonathan Small	LEARJET, INC
Tom Bell	KHA
LARRY BUENING	BD OF HEALING Arts
Natalie Bedpi	Federico Consulting

Kansas Affiliate, Inc.  
5375 S.W. 7th Street  
Topeka, Kansas 66606  
Tel 785 272-7056  
Fax 785 272-2425

January 1998

**STATEMENT IN SUPPORT OF HOUSE BILL 2723  
BY THE AMERICAN HEART ASSOCIATION  
KANSAS AFFILIATE, INC.**

**HOUSE OF REPRESENTATIVES  
HEALTH AND HUMAN SERVICES COMMITTEE  
FEBRUARY 4, 1998**

-----  
Representative Mayans and members of the Committee.....My name is Dr. William Murphy. I am a cardiovascular surgeon in Wichita and I appear on behalf of the American Heart Association, Kansas Affiliate. Thank you for the opportunity to speak in support of House Bill 2723.

Every day nearly 1,000 people in the United States die unnecessarily due to sudden cardiac arrest. More than **90 percent** of these people die because lifesaving defibrillators arrive on the scene too late, if at all.

Studies have shown that **250 lives can be saved** each day from sudden cardiac arrest by using Automatic External Defibrillators (AEDs), raising the survival rate from 5% to an impressive 30%. To accomplish this lifesaving goal, AEDs need to be more widely available and accessible to the non-medical, minimally trained lay person.

As the concept of expanding access to defibrillation receives more and more attention, the American Heart Association realizes the importance of being a leader in this arena. That is why the AHA has introduced legislation that would enable anyone who completes required training - a Basic Life Support course, including training on AEDs, - to use the devices in a cardiac emergency. (Any person using an AED would first activate the EMS system, in most communities, calling 911). This legislation will also provide protection from liability for any person using an AED in an attempt to save a life. The American Heart Association is also developing strategies for implementation of a program that will educate as well as make the public, medical and non-medical personnel aware of the importance of AEDs.

Public access to AEDs support the American Heart Association's "Chain of Survival" which refers to the four critical links in the emergency treatment of sudden cardiac arrest. Starting these procedures, which include activation of the EMS system, early CPR, early defibrillation, and early advanced care, may determine whether one lives or dies.

Recent breakthroughs in technology mean AEDs now require minimal training to operate, are easier to use and maintain, and are lower in cost, making it more practical to train individuals. As a result, the American Heart Association respectfully asks that you support House Bill 2723 and allow public access to AEDs in the state of Kansas.

/ch

HOUSE HHS COMMITTEE  
Attachment 2  
2 - 4 - 98



JAN 21 1998

January 20, 1998

American Heart Association  
Kansas Chapter  
Topeka, Kansas

ATTENTION: Ms. Cindee Stratton

Dear Ms. Stratton,

I have been asked to provide a letter of support for the Public Access Defibrillation Program (PAD). In my roles of medical director for Johnson County Med-Act Paramedic Service and Chairman of the of the Emergency Medical Services Committee (EMSC) of the Johnson County Medical Society, I am keenly interested in this therapy being readily available to the general public.

Without question, the rapid application of defibrillation to a cardiac arrest patient in a shockable rhythm currently provides the greatest chance for patient survival. Clearly, nothing else has ever been proven to be more beneficial in either the out-of-hospital or in-hospital venues. It is felt that for every minute following the onset of ventricular fibrillation that the patient remains in cardiac arrest, the potential for success resuscitation decreases by ten percent. Therefore, it is obvious that rapid defibrillation is critical to improving outcomes in sudden cardiac arrests.

On October 14, 1997, the EMSC stated the following position in their minutes:

- Endorsed the concept of early defibrillation for cardiac arrest patients as most beneficial
- Promoted application of AEDs in communities of higher arrest rates to receive emphasis

It is important that areas of need be established, those being communities of greater use potential. Careful involvement of the local EMS providers and hospitals to determine this is important. Ongoing education and quality assurance programs must be in place to assure that knowledge of the device and its applications is retained. Implementation of such devices must come from community need and not from the advocacy of the product vendor.

I commend the efforts of the Kansas Chapter of the American Heart Association for its efforts to improve the health and welfare of the citizens of our state.

Sincerely,

Lester E. Richardson, II, DO, FACEP

HOUSE HHS COMMITTEE  
Attachment 3  
2 - 4 - 98

Session of 1998

HOUSE BILL No. 2723

By Committee on Health and Human Services

1-27

9 AN ACT relating to automatic external defibrillators; authorizing use by  
 10 certain persons; requiring training and activation of the emergency  
 11 medical services system upon use of a defibrillator; encouraging certain  
 12 persons and entities to register a defibrillator; providing immunity  
 13 from liability for certain persons.  
 14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. (a) It is the intent of the legislature that an automatic  
 17 external defibrillator may be used by any person ~~for the purpose of saving~~  
 18 the life of another person in cardiac arrest.

who has satisfied the  
 requirements of (b)(1)  
 of this section

19 (b) In order to ensure public health and safety:

20 (1) All persons who have access to or use an automatic external de-  
 21 fibrillator must obtain appropriate training to include completion of a  
 22 course in cardiopulmonary resuscitation or successful completion of a  
 23 basic first aid course that includes cardiopulmonary resuscitation training  
 24 and have demonstrated proficiency in the use of an automatic external  
 25 defibrillator;

26 (2) any person or entity in possession of an automatic external defib-  
 27 rillator is encouraged to register with the local emergency medical serv-  
 28 ices medical director the existence and location of the automatic external  
 29 defibrillator; and

30 (3) any person who uses an automatic external defibrillator is re-  
 31 quired to activate the emergency medical services system as soon as pos-  
 32 sible upon use of the automatic external defibrillator.

33 (c) Any person, ~~including a person licensed to practice medicine and~~  
 34 ~~surgery~~, who gratuitously and in good faith renders emergency care or  
 35 treatment by the use of or provision of an automatic external defibrillator,  
 36 without objection of the injured victim or victims thereof, shall not be  
 37 held liable for any civil damages as a result of such care or treatment or  
 38 as a result of any act or failure to act in providing or arranging further  
 39 medical treatment where the person acts as an ordinary reasonably pru-  
 40 dent person would have acted under the same or similar circumstances.

41 Sec. 2. This act shall take effect and be in force from and after its  
 42 publication in the statute book.  
 43  
 44

HOUSE HHS COMMITTEE  
 Attachment 4  
2 - 4 - 98

Representative Mayans and members of the Committee.

Thank you for hearing me today. My name is Michael Cumley, and I am here today in a three-fold capacity.

Firstly, I am here as an independent American Heart Association Basic Life Support Instructor. Of the 36,000 plus individuals trained as Healthcare Providers (In 1996). I personally was responsible for only a small percentage. My students in these classes represented a gamut of certification in the healthcare industry, from M.D. to dental hygienist, occupational therapist to nurse's aid. In each class, when the students were told of the causes of fibrillation and explained the effects of defibrillation, the question was asked "When do we get this training? Representatives, the healthcare industry is apparently primed for this opportunity, and seemingly eager to acquire the tools and training. In classes given to the community at large church groups, athletic coaches, etc.), during explanation of the "Chain of Survival" concept, the question of public access is consistently asked. Recent media coverage of the success of AED operation (i.e. Good Morning America, Reader's Digest, etc.) has raised public awareness to the extent that I must invariably answer the question "Why can't I?."

Secondly, I am here as the owner of a safety consulting company. As a Federal Dept. of Labor, Occupational Safety and Health Administration (OSHA) Outreach Trainer, I inform companies of various sizes and industries of compliance standards; offer and advise different strategies and implementations. While OSHA does not have a specific standard covering defibrillation, standard 29CFR 1910.151 does cover CPR. Also, to be considered is the "General Duty Clause" which states that each employer "shall furnish... a place of employment, which is free from recognized hazards that are causing or are likely to cause death or seriously physical harm to the employees." Once again, media coverage of successful resuscitation caused by AED use brings up the question "Why can't I?."

Lastly, I am here as a citizen, Good Samaritan, and the son of a cardiac arrest victim. My father had a history of heart problems. He died in his home of sudden cardiac arrest. Could an AED have saved him? Sadly, we will never know. My question to you today is simply this, "Why can't I?."

I respectfully ask that you support House Bill 2723.

HOUSE HHS COMMITTEE  
Attachment 5  
2 - 4 - 98





c/o Clay County EMS  
603 FOURTH STREET  
CLAY CENTER, KANSAS 67432

(913) 632-2166 • FAX (913) 632-6050

**TO:** Kansas House of Representatives, Health & Human Services Committee  
**FROM:** Connie McAdam, President  
**DATE:** February 3, 1998  
**RE:** **HB 2723, Public Access Defibrillation**

The Kansas Emergency Medical Services Association (KEMSA) is the association that represents EMT's, Paramedics, EMS Administrators and EMS Educators throughout Kansas.

The experience I bring to the office of President of KEMSA includes 15 years of EMS, beginning as a volunteer EMT in rural Kansas to 10 years as MICT (Paramedic) in a busy suburban EMS system.

KEMSA has reviewed HB 2723, the Public Access Defibrillation bill that is being supported by the American Heart Association.

In general, KEMSA is an avid supporter of increasing the access of this life saving device to a broader population. We discussed several months ago whether to encourage passage of a similar bill. KEMSA believes that a properly implemented program of Public Access Defibrillation can indeed improve the outcome of many Kansas residents who suffer sudden cardiac arrest.

We have begun discussions with the American Heart Association regarding two improvements to be made in the proposed legislation. We are proposing an assurance of physician oversight on the local level and the notification of local EMS agencies to make a smooth transition into the EMS system.

These changes are not meant to be restrictive. We feel that with a smooth transition between the links in the "Chain of Life" there can only be improvement in the survival of cardiac arrest victims. As EMS providers we have already seen those benefits through the development of First Responder systems throughout the state.

KEMSA plans to meet with American Heart Association representatives this week and expect to come to agreement on language for a bill that will be supported throughout the EMS community.

I plan to be available at the hearing on February 4<sup>th</sup>, and for any questions you might have you can contact me at 785-867-2202.

HOUSE HHS COMMITTEE  
Attachment 6  
2 - 4 - 98

PRESIDENT:  
CONNIE McAdam  
P.O. Box 2522  
SHAWNEE MISSION,  
KS 66201-2522  
(913) 867-2202

VICE PRESIDENT  
JOHN DUDRE  
HUTCHINSON COMMUNITY COLLEGE  
1809 ESSEX ROAD  
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SECRETARY:  
PAM KEMP  
CLAY COUNTY EMS  
603 FOURTH STREET  
CLAY CENTER, KS 67432  
(913) 632-2166

TREASURER:  
DUANE BILLINGER  
BUTLER COUNTY COMMUNITY COLLEGE  
215 SOUTH GORDY  
EL DORADO, KS 67042  
(316) 321-0005

# Senate Concurrent Resolution No. 1613

By Committee on Public Health and Welfare

9 A CONCURRENT RESOLUTION establishing a task force on long-  
10 term care services to study services provided by the public and private  
11 sector to citizens of the state and laws and rules and regulations relating  
12 to such services.  
13

14 WHEREAS, The legislature is vitally interested in the welfare of the  
15 citizens of this state who are consumers of long-term care services; and

16 WHEREAS, Services provided for citizens who are consumers of long-  
17 term care by state agencies and private vendors should be provided ef-  
18 ficiently, economically and sensitively in a supportive state regulatory en-  
19 vironment; and

20 WHEREAS, Over the past several legislative sessions major statutory  
21 changes have been enacted relating to adult care homes and the respon-  
22 sibility for the administration of long-term care programs: Now, there-  
23 fore,

24 *Be it resolved by the Senate of the State of Kansas, the House of Rep-*  
25 *resentatives concurring therein:* That a task force on long-term care  
26 services be established to study the implementation and operation of re-  
27 cent statutory changes relating to adult care homes, the long-term care  
28 ombudsman program, state and federal laws and rules and regulations  
29 which impact on the services provided by government and the private  
30 sector to citizens who are consumers of long-term care and such other  
31 matters relating thereto as the task force deems appropriate; and

32 *Be it further resolved:* That the task force shall consist of 16 members  
33 appointed as follows: (a) Eight members appointed by the legislative co-  
34 ordinating council, four of whom shall be consumers of long-term care  
35 services and four of whom shall be providers of long-term care services;  
36 (b) two members appointed by the president of the senate, one of whom  
37 shall be a member of the senate committee on public health and welfare  
38 and one of whom shall be a member of the senate committee on financial  
39 institutions and insurance; (c) two members appointed by the minority  
40 leader of the senate, one of whom shall be a member of the senate com-  
41 mittee on public health and welfare and one of whom shall be a member  
42 of the senate committee on financial institutions and insurance; (d) two  
43 members appointed by the speaker of the house of representatives, one

and may include representatives of groups interested in improvement of the quality of long-term care and in long-term care for persons with disabling conditions

and may include a representative of for profit adult care homes, non-profit adult care homes, assisted living facilities and adult day care--home health care agencies

HOUSE HHS COMMITTEE  
Attachment 7-1  
2-4-98

7-2

1 of whom shall be a member of the house committee on health and human  
2 services and one whom shall be a member of the house committee on  
3 insurance; and (e) two members appointed by the minority leader of the  
4 house of representatives, one of whom shall be a member of the house  
5 committee on health and human services and one of whom shall be a  
6 member of the house committee on insurance; and

7 *Be it further resolved:* Of the eight members appointed by the leg-  
8 islative coordinating council, no more than two members shall reside in  
9 any one congressional district; and

10 *Be it further resolved:* That the legislative coordinating council shall  
11 appoint the chairperson and vice-chairperson from among the member-  
12 ship of the task force and that staffing shall be available from the legis-  
13 lative research department and the revisor of statutes office if authorized  
14 by the legislative coordinating council; and

15 *Be it further resolved:* That the members of the task force shall re-  
16 ceive reimbursement for attending meetings of the task force as author-  
17 ized by the Legislative Coordinating Council consistent with the provi-  
18 sions of K.S.A. 46-1209 and amendments thereto; and

19 *Be it further resolved:* That the task force prepare and submit a report  
20 and recommendations to the governor and to the legislature on or before  
21 January ~~12, 1998~~

11, 1999

HOUSE BILL No. 2607

By SRS Transition Oversight Committee

12-22

HOUSE HHS COMMITTEE  
Attachment 8-1  
2-4-98

9 AN ACT concerning the state long-term care ombudsman; attaching the  
10 office of the state long-term care ombudsman to the department of  
11 administration for certain purposes; prescribing certain powers, duties  
12 and functions; amending K.S.A. 75-5914, 75-5916, 75-5917, 75-5917a,  
13 75-5918, 75-5918a, 75-5919, 75-5920, 75-5921, 75-5922, 75-5922a, 75-  
14 5922b and 75-5922c and repealing the existing sections.  
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) The office of the state long-term care ombuds-  
18 man is hereby attached to the department of administration for purposes  
19 ~~of administrative services and functions and as otherwise~~ provided by this  
20 section. The office of the state long-term care ombudsman shall be in  
21 Topeka, Kansas ~~in office space provided by the department of adminis-~~  
22 ~~tration. Subject to the provisions of appropriation acts, the secretary of~~  
23 ~~administration shall provide budgeting, purchasing, personnel, payroll,~~  
24 ~~accounting and related administrative or management services, facilities~~  
25 ~~and functions, including office space, services, supplies and equipment,~~  
26 ~~for the office of the state long-term care ombudsman from resources~~  
27 ~~available to the department of administration and upon request by the~~  
28 ~~state long-term care ombudsman. All such services, facilities and func-~~  
29 ~~tions provided for the office of the state long-term care ombudsman shall~~  
30 ~~be administered by the secretary of administration and shall be provided~~  
31 ~~as requested by the state long-term care ombudsman.]~~ The secretary of  
32 administration and the department of administration shall have no au-  
33 thority over the state long-term care ombudsman, any regional long-term  
34 care ombudsman, any other ombudsman, including any volunteer om-  
35 budsman, or any other officer, employee or volunteer of the office of the  
36 state long-term care ombudsman with respect to the performance of any  
37 power, duty or function of the office or the exercise of any other authority  
38 of the office or the state long-term care ombudsman.

39 (b) ~~For the fiscal year ending June 30, 2000, and for each fiscal year~~  
40 ~~thereafter, the secretary of administration shall include in the budget~~  
41 ~~estimate prepared and submitted to the division of the budget for the~~  
42 ~~department of administration under K.S.A. 75-3717 and amendments~~  
43 ~~thereto, in addition to other amounts included in such budget estimate~~

The secretary of administration shall provide such technical assistance and advice as the secretary deems reasonable and necessary to assist the state long-term care ombudsman office to function as an independent state agency.

2-8

1 ~~for the other duties and functions of the department of administration,~~  
2 ~~an amount or amounts to be appropriated to the department of admin-~~  
3 ~~istration for such services, facilities and functions that the department of~~  
4 ~~administration is to provide for the office of the state long-term care~~  
5 ~~ombudsman during the fiscal year. Each year, the secretary of adminis-~~  
6 ~~tration shall advise and consult with the state long-term care ombudsman~~  
7 ~~regarding the amount or amounts to be included in the budget estimate~~  
8 ~~prepared for the department of administration in order to provide such~~  
9 ~~services, facilities and functions for the ensuing fiscal year in accordance~~  
10 ~~with this section]~~

11 (e) (For the fiscal year ending June 30, 2000, and for each fiscal year  
12 thereafter, the secretary of administration shall include the budget esti-  
13 mate of the office of the state long-term care ombudsman, as prepared  
14 and approved by the state long-term care ombudsman, along with the  
15 budget estimate prepared and submitted to the division of the budget for  
16 the department of administration under K.S.A. 75-3717 and amendments  
17 thereto. The budget estimate of the office of the state long-term care  
18 ombudsman for each such fiscal year shall be prepared at the direction  
19 and under the supervision of the state long-term care ombudsman. Ex-  
20 penditures from appropriations to the department of administration for  
21 the office of the state long-term care ombudsman, made pursuant to  
22 budget estimates for the office, shall be made on vouchers approved by  
23 the state long-term care ombudsman or the state long-term care om-  
24 budsman's designee. All vouchers for expenditures and all payrolls of the  
25 office of the state long-term care ombudsman shall be approved by the  
26 state long-term care ombudsman or the state long-term care ombuds-  
27 man's designee.

28 New Sec. 2. (a) The secretary of aging and the state long-term care  
29 ombudsman shall enter into agreements for the provision of financial  
30 assistance to the office by the department on aging from available state  
31 and federal funds of the department on aging. This financial assistance  
32 shall be to assist the office of the state long-term care ombudsman to  
33 provide ombudsman services in accordance with the long-term care om-  
34 budsman act, applicable federal programs and the provisions of this sec-  
35 tion.

36 (b) Subject to the provisions of appropriation acts, the secretary of  
37 aging and the department on aging shall continue to provide financial  
38 assistance for the office of the state long-term care ombudsman in an  
39 aggregate amount of not less than the aggregate of the amounts provided  
40 during the fiscal year ending June 30, 1998, appropriately adjusted for  
41 increases attributable to inflation and other applicable factors.

42 (c) For the fiscal year ending June 30, 2000, and for each fiscal year  
43 thereafter, the secretary of aging shall include in the budget estimate

8-3

1 prepared and submitted to the division of the budget for the department  
2 on aging under K.S.A. 75-3717 and amendments thereto, in addition to  
3 other amounts included in such budget estimate for the department on  
4 aging, amounts to be provided to the office of the state long-term care  
5 ombudsman during such fiscal year pursuant to this section. The amounts  
6 included in each such budget estimate to be provided to the office of the  
7 state long-term care ombudsman shall include amounts to be appropri-  
8 ated from moneys provided to the department on aging under the federal  
9 older Americans act, 42 U.S.C. 3001 *et seq.*, and amendments thereto, or  
10 other federal programs for the aging or from other moneys of the de-  
11 partment on aging. In no case shall the aggregate of the amounts included  
12 in any such budget estimate of the department on aging, that are to be  
13 provided to the office of the state long-term care ombudsman, be less  
14 than the aggregate of all moneys provided during the fiscal year ending  
15 June 30, 1998, by the department on aging for the office of the state long-  
16 term care ombudsman from appropriations to the department on aging,  
17 including moneys received under the federal older Americans act, 42  
18 U.S.C. 3001 *et seq.*, and amendments thereto, or under any other federal  
19 programs for the aging. The aggregate amounts included in each such  
20 budget estimate of the department on aging, that are to be provided to  
21 the office of the state long-term care ombudsman, shall be adjusted ap-  
22 propriately for increases attributable to inflation and other applicable fac-  
23 tors.

24 Sec. 3. K.S.A. 75-5914 is hereby amended to read as follows: 75-  
25 5914. The *advisory council on aging* shall have the following powers and  
26 duties:

27 (a) Provide advocacy for the aging in the affairs of the department,  
28 the governor's office and other public and private, state and local agencies  
29 affecting the aging;

30 (b) review and comment upon reports of the department to the gov-  
31 ernor and the legislature;

32 (c) prepare and submit to the governor, the legislature and the sec-  
33 retary an annual report evaluating the level and quality of all programs,  
34 services and facilities provided to the aging by state agencies;

35 (d) review and comment upon the comprehensive state plan pre-  
36 pared by the department;

37 (e) review and comment upon disbursements by the department of  
38 public funds to public and private agencies;

39 (f) recommend candidates to the governor for appointment as sec-  
40 retary of aging for the department on aging;

41 (g) consult with the secretary regarding the operations of the de-  
42 partment;

43 (h) serve as the advisory committee to the governor and the depart-

1 ment on aging as required and defined in the rules and regulations, part  
 2 903.50(c), issued under the federal older Americans act of 1965 (public  
 3 law 89-73) and amendments thereto;

4 (i) review and comment to the state long-term care ombudsman upon  
 5 the policies and procedures of the office of long-term care ombudsman;  
 6 ; and

7 (j) consult with the state long-term care ombudsman regarding needs  
 8 for ombudsman services for aged Kansas residents.

9 Sec. 4. K.S.A. 75-5916 is hereby amended to read as follows: 75-  
 10 5916. As used in the long-term care ombudsman act:

11 (a) "Ombudsman" means the state long-term care ombudsman, any  
 12 regional long-term care ombudsman or any individual designated as an  
 13 ombudsman under subsection (h) of K.S.A. 75-5918 and amendments  
 14 thereto who has received the training required under subsection (f) of  
 15 K.S.A. 75-5918 and amendments thereto and who has been designated  
 16 by the state long-term care ombudsman to carry out the powers, duties  
 17 and functions of the office of the state long-term care ombudsman.

18 (b) "Secretary" means the secretary of aging "Volunteer ombudsman"  
 19 means an individual who has satisfactorily completed the training pre-  
 20 scribed by the state long-term care ombudsman under subsection (f) of  
 21 K.S.A. 75-5918 and amendments thereto, who is a volunteer assisting in  
 22 providing ombudsman services and who receives no payment for such  
 23 service other than reimbursement for expenses incurred in accordance  
 24 with guidelines adopted therefor by the state long-term care ombudsman.

25 (c) "Facility" means an adult care home as such term is defined in  
 26 K.S.A. 39-923 and amendments thereto, except that facility does not in-  
 27 clude any nursing facility for mental health or any intermediate care fa-  
 28 cility for the mentally retarded, as such terms are defined in K.S.A. 39-  
 29 923 and amendments thereto.

30 (d) "Resident" means a resident as such term is defined in K.S.A. 39-  
 31 923 and amendments thereto.

32 (e) "State long-term care ombudsman" means the individual ap-  
 33 pointed by the secretary governor to administer the office of the state  
 34 long-term care ombudsman.

35 (f) "Regional long-term care ombudsman" means an individual ap-  
 36 pointed by the secretary state long-term care ombudsman under K.S.A.  
 37 75-5917 and amendments thereto.

38 (g) "Office" means the office of the state long-term care ombudsman.

39 (h) "Conflict of interest" means (1) having a pecuniary or other in-  
 40 terest in a facility, but not including interests that result only from having  
 41 a relative who is a resident or from being the guardian of a resident, (2)  
 42 being actively employed or otherwise having active involvement in rep-  
 43 resentation of or advocacy for any facility or group of facilities, whether

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1 or not such representation or advocacy is individual or through an as-  
2 sociation or other entity, but not including any such active involvement  
3 that results only from having a relative who is a resident or from being  
4 the guardian of a resident, or (3) being employed by or having an active  
5 association with any entity that represents any resident or group of res-  
6 idents, including any area agency on aging, but not including any such  
7 active association that results only from having a relative who is a resident  
8 or from being the guardian of a resident.

9 Sec. 5. K.S.A. 75-5917 is hereby amended to read as follows: 75-  
10 5917. (a) On the effective date of this act, the office of the state long-term  
11 care ombudsman in existence on the day preceding such effective date is  
12 hereby abolished and there is hereby established under the supervision  
13 of the secretary of aging within and as a part of the department on aging  
14 the office of the state long-term care ombudsman, the head of which shall  
15 be the state long-term care ombudsman. In performance of the powers,  
16 duties and functions prescribed by law, the office shall be an independent  
17 state agency. The state long-term care ombudsman shall be appointed by  
18 the secretary of aging and shall be in the classified service of the Kansas  
19 civil service act governor, subject to confirmation by the senate as pro-  
20 vided in K.S.A. 75-4315b and amendments thereto. The term of office of  
21 the first person appointed as the state long-term care ombudsman on or  
22 after the effective date of this act shall expire on January 15, 2000, and  
23 such state long-term care ombudsman shall serve until a successor is ap-  
24 pointed and confirmed. Thereafter, each person appointed as the state  
25 long-term care ombudsman shall have a term of office of four years and  
26 shall serve until a successor is appointed and confirmed.

27 (b) The secretary of aging long-term care ombudsman shall appoint  
28 each regional long-term care ombudsman and all officers and employees  
29 of the office of state long-term care ombudsman within the department  
30 on aging. Each regional long-term care ombudsman and all such officers  
31 and employees shall be within the classified service under the Kansas civil  
32 service act. Under the supervision of the secretary of aging

33 (c) In accordance with the provisions of this act, the state long-term  
34 care ombudsman shall administer the office of the state long-term care  
35 ombudsman.

36 (d) No person shall be eligible to be appointed to, or to hold, the office  
37 of state long-term care ombudsman if such person is subject to a conflict  
38 of interest. No person shall be eligible for appointment as the state long-  
39 term care ombudsman unless such person has:

40 (1) A baccalaureate or higher degree from an accredited college or  
41 university;

42 (2) demonstrated abilities to analyze problems of law, administration  
43 and public policy; and



1 (3) experience in investigation and conflict resolution procedures.

2 (e) (1) On the effective date of this act, all of the powers, duties,  
3 functions, records and property of the office of the state long-term care  
4 ombudsman abolished by this section, which are prescribed for the office  
5 of the state long-term care ombudsman by this act, are hereby transferred  
6 to and conferred and imposed upon the office of the state long-term care  
7 ombudsman that is established by this section, except as is otherwise spe-  
8 cifically provided by this act. On the effective date of this act, all of the  
9 powers, duties, functions, records and property of the secretary of aging  
10 or the department on aging, which relate to or are required for the per-  
11 formance of powers, duties or functions which are prescribed for the office  
12 of the state long-term care ombudsman or the state long-term care om-  
13 budsman by this act, including the power to expend funds now or here-  
14 after made available in accordance with appropriation acts, are hereby  
15 transferred to and conferred and imposed upon the office of the state long-  
16 term care ombudsman and the state long-term care ombudsman that are  
17 established by this section, except as is otherwise specifically provided by  
18 this act.

19 (2) The office of the state long-term care ombudsman established by  
20 this section shall be the successor in every way to the powers, duties and  
21 functions of the office of the state long-term care ombudsman, the secre-  
22 tary of aging, or the department on aging in which such powers, duties  
23 and functions were vested prior to the effective date of this act, except as  
24 otherwise specifically provided by this act. Every act performed under  
25 the authority of the office of the state long-term care ombudsman estab-  
26 lished by this act shall be deemed to have the same force and effect as if  
27 performed by the office of the state long-term care ombudsman, the sec-  
28 retary of aging or the department on aging in which such powers, duties  
29 and functions were vested prior to the effective date of this act.

30 (3) Subject to the provisions of this act, whenever the office of the  
31 state long-term care ombudsman that is abolished by this act or the sec-  
32 retary on aging or the department on aging, or words of like effect, is  
33 referred to or designated by a statute, contract, or other document, and  
34 such reference or designation relates to a power, duty or function which  
35 is transferred to and conferred and imposed upon the office of the state  
36 long-term care ombudsman that is established by this act, such reference  
37 or designation shall be deemed to apply to the office of the state long-term  
38 care ombudsman established by this act.

39 (4) All policies, orders or directives of the office of the state long-term  
40 care ombudsman that is abolished by this act and all policies, orders or  
41 directives of the secretary of aging, which are in existence on the effective  
42 date of this act and which relate to powers, duties and functions that were  
43 vested in such office of the state long-term care ombudsman or the seo-

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1 retary of aging prior to such date, shall continue to be effective and shall  
2 be deemed to be the policies, orders or directives of the state long-term  
3 care ombudsman established by this act, until revised, amended or re-  
4 voked or nullified pursuant to law. The office of the state long-term care  
5 ombudsman established by this act shall be deemed to be a continuation  
6 of the office of the state long-term care ombudsman abolished by this act.

7 (5) (A) The state long-term care ombudsman ~~and the secretary of~~  
8 ~~administration~~ shall provide that all officers and employees of the de-  
9 partment on aging, who are engaged in the exercise and performance of  
10 the powers, duties and functions of the programs of the office of the state  
11 long-term care ombudsman that are transferred by this act, are trans-  
12 ferred to the office of the state long-term care ombudsman established by  
13 this section.

14 (B) Officers and employees of the department on aging transferred  
15 under this act shall retain all retirement benefits and leave rights which  
16 had accrued or vested prior to each date of transfer. The service of each  
17 officer or employee so transferred shall be deemed to be continuous. All  
18 transfers, layoffs and abolition of classified service positions under the  
19 Kansas civil service act which may result from program transfers under  
20 this act shall be made in accordance with the civil service laws and any  
21 rules and regulations adopted thereunder. Nothing in this act shall affect  
22 the classified status of any transferred person employed by the department  
23 on aging prior to the date of transfer.

24 (C) If the state long-term care ombudsman and the secretary of aging  
25 cannot agree as to how any transfer of an officer or employee is to take  
26 place under this section, the state long-term care ombudsman and the  
27 secretary of administration shall be responsible for administering any lay-  
28 off that is part of the transfer in accordance with this act.

29 (D) Notwithstanding the effective date of this act, the provisions of  
30 this act prescribing the transfer of officers and employees between the  
31 office of the state long-term care ombudsman established by this section  
32 and the department on aging, the date of transfer of each such officer or  
33 employee shall commence at the start of a payroll period.

34 Sec. 6. K.S.A. 75-5917a is hereby amended to read as follows: 75-  
35 5917a. (a) The ~~secretary~~ state long-term care ombudsman shall ensure  
36 that:

37 ~~(a)~~ (1) No individual involved in the ~~designation~~ authorization of any  
38 individual to represent the office as an ombudsman or a volunteer om-  
39 budsman is subject to a conflict of interest;

40 ~~(b)~~ (2) no officer, employee or other representative of the office is  
41 subject to a conflict of interest;

42 ~~(c)~~ (3) policies and procedures are in place to identify and remedy all  
43 conflicts of interest specified under paragraphs ~~(a)~~ and ~~(b)~~;

(1)

1 ~~(d)~~ (4) legal counsel is available to the office for advice and consul-  
 2 tation and that legal representation is provided to any ombudsman against  
 3 whom suit or other legal action is brought in connection with the per-  
 4 formance of the ombudsman's official duties; and

5 ~~(e)~~ (5) the office has the ability to pursue administrative, legal and  
 6 other appropriate remedies on behalf of residents of facilities.

7 (b) *The state long-term care ombudsman may enter into contracts*  
 8 *with service providers to provide investigative, legal, public education*  
 9 *training or other services as may be required to assist the state long-term*  
 10 *care in providing ombudsman services to residents of facilities or as oth-*  
 11 *erwise required to carry out the powers, duties and functions of the office.*  
 12 *Contracts entered into under this subsection shall not be subject to the*  
 13 *competitive bidding requirements of K.S.A. 75-3739 and amendments*  
 14 *thereto. No contract may be entered into by the state long-term care om-*  
 15 *budsman to privatize the office or to otherwise provide that all or sub-*  
 16 *stantially all of the ombudsman services or functions of the office are to*  
 17 *be performed by one or more service providers.*

18 (c) *For the purposes of carrying out the powers and duties of the office*  
 19 *of the state long-term care ombudsman, the state long-term care om-*  
 20 *budsman may request and accept a grant or donation from any person,*  
 21 *firm, association or corporation or from any federal, state or local gov-*  
 22 *ernmental agency and may enter into contracts or other transactions with*  
 23 *any such person or entity in connection with the grant or donation.*

24 Sec. 7. K.S.A. 75-5918 is hereby amended to read as follows: 75-  
 25 5918. *The state long-term care ombudsman shall be an advocate of resi-*  
 26 *dents in facilities throughout the state. The state long-term care om-*  
 27 *budsman shall:*

28 (a) Investigate and resolve complaints made by or on behalf of the  
 29 residents relating to action, inaction or decisions of facilities or the rep-  
 30 resentatives of facilities, or both, except that all complaints of abuse, ne-  
 31 glect or exploitation of a resident shall be referred to the secretary of  
 32 health and environment in accordance with provisions of K.S.A. 39-1401  
 33 *et seq.* and amendments thereto;

34 (b) develop continuing programs to inform residents, their family  
 35 members or other persons responsible for residents regarding the rights  
 36 and responsibilities of residents and such other persons;

37 (c) provide the legislature, and the governor and the secretary with  
 38 an annual report containing data and findings and outcomes regarding  
 39 the types of problems experienced and complaints received by or on be-  
 40 half of residents and containing policy, regulatory and legislative recom-  
 41 mendations to solve such problems, resolve such complaints and improve  
 42 the quality of care and life in facilities and shall present such report and  
 43 other appropriate information and recommendations to the senate com-

1 *mittee on public health and welfare, the senate committee on ways and*  
 2 *means, the house of representatives committee on health and human serv-*  
 3 *ices and the house of representatives committee on appropriations during*  
 4 *each regular session of the legislature;*

5 (d) analyze and monitor the development and implementation of fed-  
 6 eral, state and local government laws, rules and regulations, resolutions,  
 7 ordinances and policies with respect to long-term care facilities and serv-  
 8 ices provided in this state, and recommend any changes in such laws,  
 9 regulations, resolutions, ordinances and policies deemed by the office to  
 10 be appropriate;

11 (e) provide information *and recommendations directly to news media*  
 12 *representatives, public agencies, legislators and others, as deemed nec-*  
 13 *essary by the office, regarding the problems and concerns of elder indi-*  
 14 *viduals residing residents in facilities, including recommendations related*  
 15 *thereto, except that the state long-term care ombudsman shall give the*  
 16 *information or recommendations to any directly affected parties or their*  
 17 *representatives before providing such information or recommendations to*  
 18 *news media representatives;*

19 (f) *prescribe and provide for the training of the state long-term care*  
 20 *ombudsman, each regional long-term care ombudsman and any individual*  
 21 *designated as an ombudsman under subsection (h) of K.S.A. 75-5018 and*  
 22 *amendments thereto this section, and any individual who is an ombuds-*  
 23 *man volunteer in (1) federal, state and local laws, rules and regulations,*  
 24 *resolutions, ordinances and policies with respect to facilities located in*  
 25 *Kansas, (2) investigative techniques, and (3) such other matters as the*  
 26 *secretary state long-term care ombudsman deems appropriate;*

27 (g) coordinate ombudsman services provided by the office with the  
 28 protection and advocacy systems for individuals with developmental dis-  
 29 abilities and mental illness established under part A of the federal devel-  
 30 opmental disabilities assistance and bill of rights act, 42 U.S.C.A. 6001 *et*  
 31 *seq.*, and under the federal protection and advocacy for mentally ill in-  
 32 dividuals act of 1986, public law 99-316;

33 (h) *consider authorize an individual, who is an employee of an area*  
 34 *agency on aging which provides ombudsman services the office and who*  
 35 *has been designated as satisfactorily completed the training prescribed*  
 36 *by the state long-term care ombudsman under subsection (f), to be an*  
 37 *ombudsman by the state long-term care ombudsman or a volunteer om-*  
 38 *budsman and to be a representative of the office and such an authorized*  
 39 *individual shall be deemed to be a representative of the office for the*  
 40 *purposes of this and subject to the provisions of the long-term care om-*  
 41 *budsman act;*

42 (i) *establish and maintain a system to recruit and train individuals to*  
 43 *become volunteer ombudsmen;*

1 (j) develop and implement procedures for authorizing and for with-  
 2 drawing the authorization of individuals to be ombudsmen or volunteer  
 3 ombudsmen to represent the office in providing ombudsmen services;

4 (k) provide services to residents of facilities throughout the state di-  
 5 rectly or through service providers to meet needs for ombudsmen services;

6 (l) collaborate with the department of health and environment and  
 7 the department of social and rehabilitation services to establish a state-  
 8 wide system to collect and analyze information on complaints and con-  
 9 ditions in facilities; and

10 (j) (m) perform such other duties and functions as may be provided  
 11 by law or as may be directed by the secretary of aging.

12 Sec. 8. K.S.A. 75-5918a is hereby amended to read as follows: 75-  
 13 5918a. No individual shall investigate any complaint filed with the office  
 14 of the state long-term care ombudsman unless the individual has received  
 15 the training required under subsection (f) of K.S.A. 75-5918 and amend-  
 16 ments thereto and has been designated by the state long-term care om-  
 17 budsman as an ombudsman or a voluntary ombudsman qualified to in-  
 18 vestigate such complaints.

19 Sec. 9. K.S.A. 75-5919 is hereby amended to read as follows: 75-  
 20 5919. (a) An ombudsman or a volunteer ombudsman is hereby authorized  
 21 to enter any facility and any area within such facility at any time with or  
 22 without prior notice and shall have access to the residents of a facility at  
 23 all times.

24 (b) An ombudsman or a volunteer ombudsman shall notify immedi-  
 25 ately the person in charge of a facility upon arrival and shall present  
 26 appropriate identification.

27 (c) Residents shall have the right to request, deny or terminate visits  
 28 with an ombudsman or a volunteer ombudsman.

29 Sec. 10. K.S.A. 75-5920 is hereby amended to read as follows: 75-  
 30 5920. (a) With the written consent of the resident of the facility, guardian  
 31 of the resident or next of kin of a deceased resident, an ombudsman shall  
 32 have access to all records and documents kept for or concerning the  
 33 resident.

34 (b) An ombudsman shall have access to all records and documents  
 35 kept for or concerning a resident (1) in any case in which the resident is  
 36 unable to consent and has no guardian, and (2) in a case in which (A)  
 37 access to the records and documents is necessary to investigate a com-  
 38 plaint, (B) the resident is unable to consent and the guardian of the res-  
 39 ident refuses to give permission for such access, (C) the investigating om-  
 40 budsman has reasonable cause to believe that the guardian is not acting  
 41 in the best interests of the resident, and (D) the state long-term care  
 42 ombudsman has approved such access by the investigating ombudsman.

43 (c) In addition, in assisting a resident of a facility, an ombudsman

1 shall have access to all records and documents of the facility which are  
2 relevant to such assistance to the extent necessary to carry out the pro-  
3 visions of the long-term care ombudsman act.

4 (d) *A volunteer ombudsman shall have access to the plan of care and*  
5 *other records or documents kept for or concerning the resident to the*  
6 *same extent and under the same circumstances as an ombudsman under*  
7 *this section, except that a volunteer ombudsman shall not have access to*  
8 *any such other records and documents that are privileged medical re-*  
9 *ords.*

10 Sec. 11. K.S.A. 75-5921 is hereby amended to read as follows: 75-  
11 5921. All information, records and reports received by or developed by  
12 an ombudsman *or a volunteer ombudsman* which relate to a resident of  
13 a facility, including written material identifying a resident or other com-  
14 plainant, are confidential and not subject to the provisions of K.S.A. 45-  
15 201 to 45-203, inclusive, and amendments thereto, and shall not be dis-  
16 closed or released by an ombudsman *or a volunteer ombudsman*, either  
17 by name of the resident or other complainant or of facts which allow the  
18 identity of the resident or other complainant to be inferred, except upon  
19 the order of a court or unless the resident or the resident's legal repre-  
20 sentative or other complainant consents in writing to such disclosure or  
21 release by an ombudsman *or a volunteer ombudsman*, except the state  
22 long-term care ombudsman shall forward to the secretary of health and  
23 environment and the secretary of social and rehabilitation services copies  
24 of reports received by the state long-term care ombudsman relating to  
25 the health and safety of residents and except as provided in subsection  
26 (a) of K.S.A. 75-5918 and amendments thereto. A summary report and  
27 findings shall be forwarded to the facility, exclusive of information or  
28 material that identifies residents or any other individuals.

29 Sec. 12. K.S.A. 75-5922 is hereby amended to read as follows: 75-  
30 5922. An ombudsman shall have access to all records and documents kept  
31 by the department of health and environment and the department of  
32 social and rehabilitation services which relate to facilities and concern the  
33 following matters: (a) Licensure of facilities; (b) certification of facilities;  
34 (c) public funding reimbursement for care of residents of facilities; (d)  
35 utilization and medical review records; and (e) complaints regarding care  
36 of residents of facilities. *The provisions of this sections shall not apply to*  
37 *a volunteer ombudsman.*

38 Sec. 13. K.S.A. 75-5922a is hereby amended to read as follows: 75-  
39 5922a. No ombudsman *or volunteer ombudsman* shall be liable for the  
40 good faith performance of official duties.

41 Sec. 14. K.S.A. 75-5922b is hereby amended to read as follows: 75-  
42 5922b. (a) No person shall willfully interfere with any lawful action or  
43 activity of an ombudsman *or a volunteer ombudsman*, including the re-

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1 quest for immediate entry into a facility.

2 (b) No person shall take any discriminatory, disciplinary or retaliatory  
3 action against any officer or employee of a facility or against any resident  
4 or any guardian or family member thereof for any communication by any  
5 such individual with an ombudsman or a volunteer ombudsman or for  
6 any information given or disclosed by such individual in good faith to aid  
7 the office in carrying out its duties and responsibilities.

8 (c) Any person that violates the provisions of subsection (a) or the  
9 provisions of subsection (b) shall be guilty of a class C misdemeanor.

10 Sec. 15. K.S.A. 75-5922c is hereby amended to read as follows: 75-  
11 5922c. The provisions of sections 1 and 2 and K.S.A. 75-5916 through  
12 75-5922c and amendments thereto shall be known and may be cited as  
13 the long-term care ombudsman act.

14 Sec. 16. K.S.A. 75-5914, 75-5916, 75-5917, 75-5917a, 75-5918, 75-  
15 5918a, 75-5919, 75-05920, 75-5921, 75-5922, 75-5922a, 75-5922b and 75-  
16 5922c are hereby repealed.

17 Sec. 17. This act shall take effect and be in force from and after its  
18 publication in the ~~statute books~~

June 14, 1998, and

Kansas Register