

CHAPTER 56
HOUSE BILL No. 2153

AN ACT concerning the secretary of aging; relating to the long-term care ombudsman; amending K.S.A. 2004 Supp. 75-7306 and 75-7310 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 75-7306 is hereby amended to read as follows: 75-7306. The state long-term care ombudsman shall be an advocate of residents in facilities throughout the state. The state long-term care ombudsman shall:

(a) Investigate and resolve complaints made by or on behalf of the residents relating to action, inaction or decisions of facilities or the representatives of facilities, or both, except that all complaints of abuse, neglect or exploitation of a resident shall be referred to the secretary of ~~health and environment~~ *aging* in accordance with provisions of K.S.A. 39-1401 et seq. and amendments thereto;

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

(c) provide the legislature and the governor with an annual report containing data, findings and outcomes regarding the types of problems experienced and complaints received by or on behalf of residents and containing policy, regulatory and legislative recommendations to solve such problems, resolve such complaints and improve the quality of care and life in facilities and shall present such report and other appropriate information and recommendations to the senate committee on public health and welfare, the senate committee on ways and means, the house of representatives committee on health and human services and the house of representatives committee on appropriations during each regular session of the legislature;

(d) analyze and monitor the development and implementation of federal, state and local government laws, rules and regulations, resolutions, ordinances and policies with respect to long-term care facilities and services provided in this state, and recommend any changes in such laws, regulations, resolutions, ordinances and policies deemed by the office to be appropriate;

(e) provide information and recommendations directly to news media representatives, public agencies, legislators and others, as deemed necessary by the office, regarding the problems and concerns of residents in facilities, including recommendations related thereto, except that the state long-term care ombudsman shall give the information or recommendations to any directly affected parties or their representatives before providing such information or recommendations to news media representatives;

(f) prescribe and provide for the training of each regional long-term care ombudsman and any individual designated as an ombudsman under subsection (h) of this section, and any individual who is an ombudsman volunteer in (1) federal, state and local laws, rules and regulations, resolutions, ordinances and policies with respect to facilities located in Kansas, (2) investigative techniques, and (3) such other matters as the state long-term care ombudsman deems appropriate;

(g) coordinate ombudsman services provided by the office with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the federal developmental disabilities assistance and bill of rights act, 42 U.S.C.A. 6001 et seq., and under the federal protection and advocacy for mentally ill individuals act of 1986, public law 99-316;

(h) authorize an individual, who is an employee of the office and who has satisfactorily completed the training prescribed by the state long-term care ombudsman under subsection (f), to be an ombudsman or a volunteer ombudsman and to be a representative of the office and such an authorized individual shall be deemed to be a representative of the office for the purposes of and subject to the provisions of the long-term care ombudsman act;

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

(j) develop and implement procedures for authorizing and for with-

drawing the authorization of individuals to be ombudsmen or volunteer ombudsmen to represent the office in providing ombudsmen services;

(k) provide services to residents of facilities throughout the state directly or through service providers to meet needs for ombudsmen services;

(l) collaborate with the department of health and environment and the department of social and rehabilitation services *of social and rehabilitation services and the department on aging* to establish a statewide system to collect and analyze information on complaints and conditions in facilities; and

(m) perform such other duties and functions as may be provided by law.

Sec. 2. K.S.A. 2004 Supp. 75-7310 is hereby amended to read as follows: 75-7310. All information, records and reports received by or developed by an ombudsman or a volunteer ombudsman which relate to a resident of a facility, including written material identifying a resident or other complainant, are confidential and not subject to the provisions of K.S.A. ~~45-201 to 45-203~~ *45-215 to 45-226*, inclusive, and amendments thereto, and shall not be disclosed or released by an ombudsman or a volunteer ombudsman, either by name of the resident or other complainant or of facts which allow the identity of the resident or other complainant to be inferred, except upon the order of a court or unless the resident or the resident's legal representative or other complainant consents in writing to such disclosure or release by an ombudsman or a volunteer ombudsman, except the state long-term care ombudsman shall forward to the *secretary of aging* ~~secretary of health and environment and the secretary of social and rehabilitation services~~ copies of reports received by the state long-term care ombudsman relating to the health and safety of residents and except as provided in subsection (a) of K.S.A. 2004 Supp. ~~75-7306 and amendments thereto~~. A summary report and findings shall be forwarded to the facility, exclusive of information or material that identifies residents or any other individuals.

Sec. 3. K.S.A. 2004 Supp. 75-7306 and 75-7310 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2005.
