

HOUSE BILL No. 2590

By Committee on Health and Human Services

1-31

Corrections
P. 3 and P. 9

1 AN ACT concerning the state long-term care ombudsman; review by
2 secretary for aging and disability services of the state long-term care
3 ombudsman program; access to certain records; amending K.S.A. 2017
4 Supp. 75-7302, 75-7303, 75-7304, 75-7306, 75-7309 and 75-7310 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2017 Supp. 75-7302 is hereby amended to read as
9 follows: 75-7302. (a) The secretary for aging and disability services and
10 the state long-term care ombudsman shall enter into agreements for the
11 provision of financial assistance to the office by the Kansas departments for
12 aging and disability services from available state and federal funds of the
13 Kansas department for aging and disability services. This financial
14 assistance shall be to assist the office of the state long-term care
15 ombudsman to provide ombudsman services in accordance with the long-
16 term care ombudsman act, applicable federal programs and the provisions
17 of this section.

18 (b) *The secretary for aging and disability services shall monitor the*
19 *state long-term care ombudsman program and its activities as set forth in*
20 *the agreement. Such monitoring shall include an assessment of whether*
21 *the state long-term care ombudsman program is performing all of the*
22 *functions, responsibilities and duties set out in state and federal laws and*
23 *regulations.*

24 (c) Subject to the provisions of appropriation acts, the secretary for
25 aging and disability services and the Kansas department for aging and
26 disability services shall continue to provide financial assistance for the
27 office of the state long-term care ombudsman in an aggregate amount of
28 not less than the aggregate of the amounts provided during the fiscal year
29 ending June 30, 1998, appropriately adjusted for increases attributable to
30 inflation and other applicable factors.

31 ~~(e)(d) For the fiscal year ending June 30, 2000, and for each fiscal~~
32 ~~year thereafter, the secretary for aging and disability services shall include~~
33 ~~in the budget estimate prepared and submitted to the division of the budget~~
34 ~~for the Kansas department for aging and disability services under K.S.A.~~
35 ~~75-3717, and amendments thereto, in addition to other amounts included~~
36 ~~in such budget estimate for the Kansas department for aging and disability~~

1 K.S.A. 39-923, and amendments thereto.

2 (d) "Resident" means a resident as such term is defined in K.S.A. 39-
3 923, and amendments thereto.

4 (e) "State long-term care ombudsman" means the individual
5 appointed by the governor to administer the office of the state long-term
6 care ombudsman.

7 (f) "Regional long-term care ombudsman" means an individual
8 appointed by the state long-term care ombudsman under K.S.A. 2017
9 Supp. 75-7304, and amendments thereto.

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

11 (h) "Conflict of interest" means: (1) Having a pecuniary or other
12 interest in a facility, but not including interests that result only from having
13 a relative who is a resident or from being the guardian of a resident; (2)
14 being actively employed or otherwise having active involvement in
15 representation of or advocacy for any facility or group of facilities,
16 whether or not such representation or advocacy is individual or through an
17 association or other entity, but not including any such active involvement
18 that results only from having a relative who is a resident or from being the
19 guardian of a resident; ~~or~~; (3) being employed by or having an active
20 association with any entity that represents any resident or group of
21 residents, including any area agency on aging, but not including any such
22 active association that results only from having a relative who is a resident
23 or from being the guardian of a resident; *or* (4) *receipt of gifts, gratuities,*
24 *money or compensation from a long-term care facility, its management, a*
25 *resident or the resident's representative, in which the ombudsman or*
26 *ombudsman's representative provides services.*

Resident

27 (i) ~~"Residential representative" means:~~
28 (1) *An individual chosen by the resident to act on behalf of the*
29 *resident in order to support the resident in decision-making; access*
30 *medical, social or other personal information of the resident; manage*
31 *financial matters; or receive notifications;*

32 (2) *a person authorized by state or federal law, including, but not*
33 *limited to, agents under power of attorney, representative payees and*
34 *other fiduciaries, to act on behalf of the resident in order to support the*
35 *resident in decision-making; access medical, social or other personal*
36 *information of the resident; manage financial matters; or receive*
37 *notifications;*

38 (3) *the resident's legal representative, as used in the older americans*
39 *act; or*

resident

40 (4) *the court-appointed guardian or conservator of a resident.*
41 ~~Nothing in the definition of "Residential representative" shall be~~
42 ~~construed to expand the scope of authority of any resident representative~~
43 ~~beyond that authority specifically authorized by the resident, state or~~

1 investigating ombudsman *or* *volunteer ombudsman*.

2 (c) In addition, in assisting a resident of a facility, an ombudsman *or*
3 *volunteer ombudsman* shall have access to all records and documents of
4 the facility which are relevant to such assistance to the extent necessary to
5 carry out the provisions of the long-term care ombudsman act.

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

11 Sec. 6. K.S.A. 2017 Supp. 75-7310 is hereby amended to read as
12 follows: 75-7310. All information, records and reports received by or
13 developed by an ombudsman or a volunteer ombudsman which relate to a
14 resident of a facility, including written material identifying a resident or
15 other complainant, are confidential and not subject to the provisions of
16 K.S.A. 45-215 ~~to through 45-226, inclusive~~, and amendments thereto, and
17 shall not be disclosed or released by an ombudsman or a volunteer
18 ombudsman, either by name of the resident or other complainant or of
19 facts which allow the identity of the resident or other complainant to be
20 inferred, except upon the order of a court or unless the resident or the
21 resident's legal representative ~~or other complainant~~ consents in writing to
22 such disclosure or release by an ombudsman or a volunteer ombudsman,
23 except the state long-term care ombudsman shall forward to the secretary
24 for aging and disability services ~~copies of reports received by the state
25 long-term care ombudsman a quarterly summary report~~ relating to the
26 health and safety of residents ~~and complains reported~~. A summary report
27 ~~and findings shall may be forwarded to the facility posted on the [STPCDA]~~
28 *website quarterly*, exclusive of information or material that identifies
29 residents or any other individuals.

30 Sec. 7. K.S.A. 2017 Supp. 75-7302, 75-7303, 75-7304, 75-7306, 75-
31 7309 and 75-7310 are hereby repealed.

32 Sec. 8. This act shall take effect and be in force from and after its
33 publication in the statute book.

state long-term care ombudsman program