

## **State Long-Term Care Ombudsman Program; HB 2590**

**HB 2590** amends law related to the State Long-Term Care Ombudsman (Ombudsman) and the State Long-Term Care Ombudsman Program (Program).

### ***Monitoring of the Program***

The bill requires the Secretary for Aging and Disability Services (Secretary) to monitor the Program and its activities, as set forth in the agreement entered into by the Secretary and Ombudsman for the provision of financial assistance to the Office of the Ombudsman. The monitoring must include an assessment of whether the Program is performing all of the functions, responsibilities, and duties set forth in state and federal laws and regulations.

### ***Definitions***

The bill amends and adds definitions used in the Long-Term Care Ombudsman Act (Act). The bill amends the definition of “conflict of interest” to include receipt of gifts, gratuities, money, or compensation from a long-term care facility, its management, a resident, or the resident’s representative, in which the Ombudsman or Ombudsman’s representative provides services.

The bill defines “resident representative” to mean:

- An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
- A person authorized by state or federal law, including, but not limited to, agents under power of attorney, representative payees and other fiduciaries, to act on behalf of the resident in order to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
- The resident’s legal representative, as used in the federal Older Americans Act;  
or
- The court-appointed guardian or conservator of a resident.

Additionally, the definition of “resident representative” will not be construed to expand the scope of authority of any resident representative beyond the authority specifically authorized by the resident, state, or federal law, or a court of competent jurisdiction.

### ***Qualifications of the Ombudsman***

The bill adds additional eligibility requirements to the Ombudsman. The bill prohibits an individual from the appointment to, or holding the office of, Ombudsman if the individual was

employed by or participated in the management of a long-term care facility within the previous 12 months. Additionally, the bill specifies no person will be eligible for appointment as the Ombudsman unless the person has experience in negotiation (in addition to investigation and conflict resolution procedures under continuing law), demonstrated expertise in long-term care services and supports or other direct services for older persons or individuals with disabilities, and demonstrated expertise in leadership and program management skills.

### ***Duties of the Ombudsman***

The bill amends the duties of the Ombudsman. The Ombudsman is required to investigate and resolve complaints made by or on behalf of the residents:

- Relating to action, inaction, or decisions of providers, or representatives of providers, of long-term care, public agencies, or health and social services. The bill specifies complaints of abuse, neglect, or exploitation of a resident may be referred to the Secretary (changed from a requirement these complaints be referred to the Secretary), with the resident or resident's representative's consent, or as permitted by federal law; or
- Regarding the welfare and rights of residents with respect to the appointment or activities of resident representatives.

The bill specifies to whom the Ombudsman will be required to provide information, including public and private agencies and the media. Additionally, the Ombudsman is permitted to give the information or recommendations to any directly affected public and private agency or legislator (changed from a requirement the information be provided to any directly affected parties or their representatives).

The bill amends the duty of the Ombudsman to collaborate with the Kansas Department for Aging and Disability Services so the parties will review and maintain (rather than establish, as in prior law) the statewide system that collects and analyzes information on complaints and conditions in facilities.

### ***Access of Records***

The bill amends law related to access to records and documents concerning residents. The bill updates "guardian of the resident" to "resident representative" so the resident representative, with consent of the resident of the facility, has access to all records and documents kept for or concerning the resident. The bill also updates "guardian" to "resident representative" in all instances related to access of documents by the Ombudsman. The bill specifies an ombudsman or volunteer ombudsman has access to all administrative records, policies, and documents of the facility that the residents have or the general public has access to that are relevant to carry out provisions of the Act. Additionally, the bill deletes the subsection of law related to the volunteer ombudsman having access to the plan of care and other records or documents, because the bill provides the volunteer ombudsman with access to certain administrative records, policies, and documents.

### ***Quarterly Summary Report***

The bill requires the Ombudsman to forward to the Secretary a quarterly summary report relating to the health and safety of residents, complaints reported, and resolutions to complaints. The bill permits the summary report to be posted quarterly on the Program's website.