

# Senate File 204 - Enrolled

SENATE FILE 204

## AN ACT

RELATING TO THE DEPARTMENT OF ELDER AFFAIRS AND SERVICES  
PROVIDED TO OLDER IOWANS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 7E.5, subsection 1, paragraph k, Code 2009, is amended to read as follows:

k. The department of ~~elder affairs~~ on aging, created in section 231.21, which has primary responsibility for leadership and program management for programs which serve the ~~senior citizens~~ older individuals of the state.

Sec. 2. Section 10A.402, subsection 5, Code 2009, is amended to read as follows:

5. Investigations relative to the operations of the department of ~~elder affairs~~ on aging.

Sec. 3. Section 16.100, subsection 8, Code 2009, is amended to read as follows:

8. A homelessness advisory committee is created consisting of the executive director or the executive director's designee, the directors or their designees from the departments of economic development, ~~elder affairs~~, human services, and human rights, the director of the department on aging or the director's designee, and at least three individuals from the private sector to be selected by the executive director. The advisory committee shall advise the authority in coordinating programs that provide for the homeless.

Sec. 4. Section 16.100A, subsection 2, paragraph b, subparagraph (7), Code 2009, is amended to read as follows:

(7) The director of the department of ~~elder affairs~~ on aging or the director's designee.

Sec. 5. Section 16.183, subsection 3, Code 2009, is amended to read as follows:

3. The authority, in cooperation with the department of ~~elder affairs~~ on aging, shall annually allocate moneys available in the home and community-based services revolving loan program fund to develop and expand facilities and infrastructure that provide adult day services, respite services, congregate meals, and programming space for health and wellness, health screening, and nutritional assessments that address the needs of persons with low incomes.

Sec. 6. Section 22.7, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 62. Records of the department on aging pertaining to clients served by the office of substitute decision maker.

NEW SUBSECTION. 63. Records of the department on aging pertaining to clients served by the elder abuse prevention initiative.

Sec. 7. Section 84B.1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The department of workforce development, in consultation with the departments of economic development, education, ~~elder affairs~~, human services, and human rights, the department on aging, and the department for the blind, shall establish guidelines for colocating state and federal employment and training programs in centers providing services at the local level. The centers shall be known as workforce development centers. The departments shall also jointly establish an integrated management information system for linking the programs within a local center to the same programs within other local centers and to the state. The guidelines shall provide for local design and operation within the guidelines. The core services available at a center shall include but are not limited to all of the following:

Sec. 8. Section 135.27A, subsection 1, Code 2009, is amended to read as follows:

1. A governor's council on physical fitness and nutrition is established consisting of twelve members appointed by the governor who have expertise in physical activity, physical fitness, nutrition, and promoting healthy behaviors. At least

one member shall be a representative of elementary and secondary physical education professionals, at least one member shall be a health care professional, at least one member shall be a registered dietician, at least one member shall be recommended by the department of ~~elder affairs on aging~~, and at least one member shall be an active nutrition or fitness professional. In addition, at least one member shall be a member of a racial or ethnic minority. The governor shall select a chairperson for the council. Members shall serve terms of three years beginning and ending as provided in section 69.19. Appointments are subject to sections 69.16 and 69.16A. Members are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A member of the council may also be eligible to receive compensation as provided in section 7E.6.

Sec. 9. Section 135C.20A, subsection 2, Code 2009, is amended to read as follows:

2. The report card form shall be developed by the department in cooperation with representatives of the department of ~~elder affairs on aging~~, the state long-term care resident's advocate, representatives of resident advocate committees, representatives of protection and advocacy entities, consumers, and other interested persons.

Sec. 10. Section 135C.25, subsection 1, Code 2009, is amended to read as follows:

1. Each health care facility shall have a resident advocate committee whose members shall be appointed by the director of the department of ~~elder affairs on aging~~ or the director's designee. A person shall not be appointed a member of a resident advocate committee for a health care facility unless the person is a resident of the service area where the facility is located. The resident advocate committee for any facility caring primarily for persons with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and disability services of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on resident advocate committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the resident advocate committee and shall not be present at committee meetings except upon request of the committee.

Sec. 11. Section 227.2, subsection 2, Code 2009, is amended to read as follows:

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and mental retardation coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its resident advocate committee, and to the department of ~~elder affairs on aging~~.

Sec. 12. Section 231.1, Code 2009, is amended to read as follows:

231.1 SHORT TITLE.

This chapter, entitled the "~~Elder~~ Older Iowans Act", sets forth the state's commitment to its ~~elders~~ older individuals, their dignity, independence, and rights.

Sec. 13. Section 231.2, Code 2009, is amended to read as follows:

231.2 LEGISLATIVE FINDINGS AND DECLARATION.

The general assembly finds and declares that:

1. Iowa's ~~elders~~ older individuals constitute a fundamental resource which has been undervalued, and the means must be found to recognize and use the competence, wisdom, and experience of ~~our elders~~ such older individuals for the benefit of all Iowans.

2. The number of persons in this state age sixty and older is increasing rapidly, and of these ~~elders~~ older individuals, the number of women, minorities, and persons eighty-five years of age or older is increasing at an even greater rate.

3. The social and health problems of older ~~people~~ individuals and their caregivers are compounded by a lack of access to existing services and by the unavailability of a complete range of services in all areas of the state.

4. The ability of older ~~people~~ individuals to maintain self-sufficiency and to live their lives with dignity, productivity, and creativity is a matter of profound importance and concern for this state.

Sec. 14. Section 231.3, Code 2009, is amended to read as

follows:

231.3 STATE POLICY AND OBJECTIVES.

The general assembly declares that it is the policy of the state to work toward attainment of the following objectives for Iowa's ~~elders~~ older individuals:

1. An adequate income.
2. Access to physical and mental health care without regard to economic status.
3. Suitable housing that reflects the needs of older people.
4. Full restorative services for those who require institutional care, and a comprehensive array of home and community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.
5. Pursuit of meaningful activity within the widest range of civic, cultural, educational, recreational, and employment opportunities.
6. Suitable community transportation systems to assist in the attainment of independent movement.
7. Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.
8. Freedom from abuse, neglect, and exploitation.

Sec. 15. Section 231.4, subsections 2, 3, 4, 5, and 10, Code 2009, are amended to read as follows:

2. "Commission" means the commission ~~of elder affairs on aging.~~
3. "Department" means the department ~~of elder affairs on aging.~~
4. "Director" means the director of the department ~~of elder affairs on aging.~~
5. ~~"Elder"~~ "Older individual" means an individual who is sixty years of age or older.
10. "Resident's advocate program" means the state long-term care resident's advocate program ~~operated administered by the department of elder affairs and administered by the long-term care resident's advocate on aging.~~

Sec. 16. Section 231.11, Code 2009, is amended to read as follows:

231.11 COMMISSION ESTABLISHED.

The commission ~~of elder affairs on aging~~ is established which shall consist of eleven members. One member each shall be appointed by the president of the senate, after consultation with the majority leader of the senate, and by the minority leader of the senate, from the members of the senate to serve as ex officio, nonvoting members. One member each shall be appointed by the speaker of the house of representatives and by the minority leader of the house of representatives, from the members of the house of representatives to serve as ex officio, nonvoting members. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor's appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

Sec. 17. Section 231.14, subsections 3, 4, 6, 7, and 8, Code 2009, are amended to read as follows:

3. Serve as an effective and visible advocate for ~~elders~~ older individuals by establishing policies for reviewing and commenting upon all state plans, budgets, and policies which affect ~~elders~~ older individuals and for providing technical assistance to any agency, organization, association, or individual representing the needs of ~~elders~~ older individuals.
4. Divide the state into distinct planning and service areas after considering the geographical distribution of ~~elders~~ older individuals in the state, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal services, the distribution of ~~elders~~ older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the state which are drawn for the planning or administration of supportive services programs, the location of units of general purpose, local government within the state, and any other relevant factors.
6. Adopt policies to assure that the department will take into account the views of ~~elders~~ older individuals in the development of policy.

7. Adopt a formula for the distribution of federal Act, state ~~elder~~ services for older individuals, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of ~~elders~~ older individuals in the state, and publish the formula for review and comment.

8. Adopt policies and measures to assure that preference will be given to providing services to ~~elders~~ older individuals with the greatest economic or social needs, with particular attention to low-income minority ~~elders~~ older individuals.

Sec. 18. Section 231.21, Code 2009, is amended to read as follows:

231.21 DEPARTMENT OF ~~ELDER AFFAIRS~~ ON AGING.

An Iowa department of ~~elder affairs~~ on aging is established which shall administer this chapter under the policy direction of the commission of ~~elder affairs~~ on aging. The department of ~~elder affairs~~ on aging shall be administered by a director.

Sec. 19. Section 231.22, Code 2009, is amended to read as follows:

231.22 DIRECTOR.

1. The governor, subject to confirmation by the senate, shall appoint a director of the department of ~~elder affairs~~ on aging who shall, subject to chapter 8A, subchapter IV, employ and direct staff as necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 4. The governor shall set the salary for the director within the range set by the general assembly.

2. The director shall have the following qualifications and training:

a. Training in the field of gerontology, social work, public health, public administration, or other related fields.

b. Direct experience or extensive knowledge of programs and services related to ~~elders~~ older individuals.

c. Demonstrated understanding and concern for the welfare of ~~elders~~ older individuals.

d. Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

Sec. 20. Section 231.23, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The department of ~~elder affairs~~ on aging director shall:

Sec. 21. Section 231.23, subsections 4, 7, 9, and 11, Code 2009, are amended to read as follows:

4. Advocate for ~~elders~~ older individuals by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect ~~elders~~ older individuals and by providing technical assistance to any agency, organization, association, or individual representing the needs of the ~~elders~~ older individuals.

7. Pursuant to commission policy, take into account the views of ~~elder~~ older Iowans.

9. Assist the commission in assuring that preference will be given to providing services to ~~elders~~ older individuals with the greatest economic or social needs, with particular attention to low-income minority ~~elders~~ older individuals.

11. Apply for, receive, and administer grants ~~and~~ devises, donations, gifts, or bequests of real or personal property from any source to conduct projects consistent with the purposes of this chapter the department. Notwithstanding section 8.33, moneys received by the department pursuant to this section are not subject to reversion to the general fund of the state.

Sec. 22. Section 231.23A, Code 2009, is amended to read as follows:

231.23A PROGRAMS AND SERVICES.

The department of ~~elder affairs~~ on aging shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. ~~Elder services~~ Services for older individuals including but not limited to home and community-based services such as adult day, assessment and intervention, transportation, chore, counseling, homemaker, material aid, personal care, reassurance, respite, visitation, caregiver support, emergency response system, mental health outreach, and home repair-~~meals, and nutrition counseling.~~

2. The senior internship program.

3. The case management program for frail elders.

4. The aging and disability resource center program.

5. The legal assistance development program.

6. The nutrition program.

~~4- 7.~~ Administration relating to the long-term care resident's advocate program and training for resident advocate committees.

~~5- 8.~~ Administration relating to the area agencies on aging.

9. Elder abuse prevention, detection, intervention, and awareness including neglect and exploitation.

~~6- 10.~~ Other programs and services authorized by law.

Sec. 23. Section 231.31, Code 2009, is amended to read as follows:

231.31 STATE PLAN ON AGING.

The department of ~~elder affairs on aging~~ shall develop, and submit to the commission of ~~elder affairs on aging~~ for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

Sec. 24. Section 231.32, subsection 2, paragraph d, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department of ~~elder affairs on aging~~ and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

Sec. 25. Section 231.33, subsections 2, 7, 8, 9, 11, 14, 15, 16, 17, 18, 19, and 21, Code 2009, are amended to read as follows:

2. Assess the types and levels of services needed by older ~~persons individuals and their caregivers~~ in the planning and service area, and the effectiveness of other public or private programs serving those needs.

7. Give preference in the delivery of services under the area plan to ~~elders older individuals~~ with the greatest economic or social need.

8. Assure that ~~elders older individuals and their caregivers~~ in the planning and service area have reasonably convenient access to information and assistance services.

9. Provide adequate and effective opportunities for ~~elders older individuals~~ to express their views to the area agency on policy development and program implementation under the area plan.

11. Contact outreach efforts, with special emphasis on rural ~~elders older individuals~~, to identify ~~elders older individuals~~ with greatest economic or social needs and inform them of the availability of services under the area plan.

14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of ~~elders older individuals~~.

15. Conduct public hearings on the needs of ~~elders older individuals and their caregivers~~.

16. Represent the interests of ~~elders older individuals and their caregivers~~ to public officials, public and private agencies, or organizations.

17. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for ~~elders older individuals~~.

18. Coordinate planning with other agencies for assuring the safety of ~~elders older individuals~~ in a natural disaster or other safety threatening situation.

19. Require the completion by board of directors members, annually, of four hours of training, provided by the department of ~~elder affairs on aging~~.

21. Provide the opportunity for ~~elders older individuals~~ residing in the planning and service area to offer substantive suggestions regarding the employment practices of the area agency on aging.

Sec. 26. Section 231.41, Code 2009, is amended to read as follows:

231.41 PURPOSE.

The purpose of this subchapter is to establish the long-term care resident's advocate program operated by the Iowa commission of ~~elder affairs on aging~~ in accordance with the requirements of the federal Act, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission of ~~elder affairs on aging~~ shall adopt and enforce rules for the implementation of this subchapter.

Sec. 27. Section 231.42, unnumbered paragraph 1, Code

2009, is amended to read as follows:

The Iowa commission ~~of elder affairs on aging~~, in accordance with section 712 of the federal Act, as codified at 42 U.S.C. } 3058g, shall establish the office of long-term care resident's advocate within the department. The long-term care resident's advocate shall administer and monitor local long-term care resident's advocate programs. The long-term care resident's advocate and local long-term care resident's advocates shall:

Sec. 28. Section 231.42, subsection 6, Code 2009, is amended to read as follows:

6. Administer the resident advocate committee volunteer program.

Sec. 29. Section 231.42, unnumbered paragraph 2, Code 2009, is amended to read as follows:

The long-term care resident's advocate and local long-term care resident's advocates shall have access to long-term care facilities, private access to residents, access to residents' personal and medical records, and access to other records maintained by the facilities or governmental agencies pertaining only to the person on whose behalf a complaint is being investigated.

Sec. 30. Section 231.43, Code 2009, is amended to read as follows:

231.43 AUTHORITY AND RESPONSIBILITIES OF THE COMMISSION.

To ensure compliance with the federal Act the commission ~~of elder affairs on aging~~ shall establish the following:

1. Procedures to protect the confidentiality of a resident's records and files.

2. A statewide uniform reporting system.

3. Procedures to enable the long-term care resident's advocate to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of ~~elders~~ older individuals in long-term care facilities.

Sec. 31. Section 231.44, subsections 1 and 4, Code 2009, are amended to read as follows:

1. The resident advocate committee volunteer program is administered by the long-term care resident's advocate program.

4. The state, any resident advocate committee member, and any ~~resident advocate coordinator~~ local long-term care resident's advocate are not liable for an action undertaken by a resident advocate committee member or a ~~resident advocate committee coordinator~~ local long-term care resident's advocate in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

Sec. 32. Section 231.52, subsections 1 and 3, Code 2009, are amended to read as follows:

1. The department shall ~~establish~~ administer the senior internship program in ~~coordination~~ consultation with the department of workforce development to encourage and promote ~~the meaningful employment of older Iowans work training programs leading to the employment of older individuals.~~

3. The department shall require such uniform reporting and financial accounting by ~~area agencies on aging and local projects~~ contractors as may be necessary to fulfill the purposes of this section.

Sec. 33. Section 231.53, Code 2009, is amended to read as follows:

231.53 COORDINATION WITH WORKFORCE INVESTMENT ACT.

The ~~employment and training program administered by the department senior internship program~~ shall be coordinated with the ~~training program for older individuals~~ federal Workforce Investment Act administered by the department of workforce development ~~under the federal Workforce Investment Act.~~

Sec. 34. Section 231.56, Code 2009, is amended to read as follows:

231.56 ~~ELDER SERVICES PROGRAM AND PROGRAMS.~~

The department shall administer ~~an elder services program and programs~~ to reduce institutionalization and encourage community involvement to help ~~elders~~ older individuals remain in their own homes. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.

Sec. 35. Section 231.56A, subsections 1 through 5, Code 2009, are amended to read as follows:

1. Through the state's service contract process adopted pursuant to section 8.47, the department shall identify ~~area agencies on aging~~ entities that have demonstrated the ability

to provide a collaborative response to the immediate needs of ~~elders in the area agency on aging service area~~ older individuals for the purpose of implementing elder abuse initiative, emergency shelter, and support services projects. The projects shall be ~~implemented only in the counties within an area agency on aging~~ coordinated in service area areas that have a multidisciplinary team established pursuant to section 235B.1, where available.

2. The target population of the projects shall be any ~~elder older individual~~ residing in the ~~service area of an area agency on aging Iowa~~ who meets both of the following conditions:

a. ~~It is~~ is at risk of or who is experiencing abuse, neglect, or exploitation which may include but is not limited to an ~~older individual who is~~ the subject of a report of suspected dependent adult abuse pursuant to chapter 235B. This subsection shall not apply to an older individual who is receiving assistance under a county management plan approved pursuant to section 331.439.

b. ~~Is not receiving assistance under a county management plan approved pursuant to section 331.439.~~

3. The ~~area agencies on aging~~ contractor implementing the projects shall identify allowable emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained under the projects. ~~The area agency on aging shall identify at least one provider of case management services for the project area.~~

4. The ~~area agencies on aging~~ contractor shall implement the projects and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to ~~elders~~ older individuals.

5. The department shall award funds to the ~~area agencies on aging~~ contractor in accordance with the state's service contract process and department rule. Receipt and expenditures of moneys under the projects are subject to examination, including audit, by the department.

Sec. 36. Section 231.57, Code 2009, is amended to read as follows:

231.57 COORDINATION OF ADVOCACY.

The department shall ~~establish~~ administer a program for the coordination of information and assistance provided within the state to assist ~~elders older individuals and their caregivers~~ in obtaining and protecting their rights and benefits. State and local agencies providing information and assistance to ~~elders older individuals and their caregivers~~ in seeking their rights and benefits shall cooperate with the department in ~~developing and implementing~~ administering this program.

Sec. 37. Section 231.58, subsection 1, Code 2009, is amended to read as follows:

1. A senior living coordinating unit is created within the department ~~of elder affairs on aging~~. The membership of the coordinating unit consists of:

a. The director of human services.

b. The director of the department ~~of elder affairs on aging~~.

c. The director of public health.

d. The director of the department of inspections and appeals.

e. Two members appointed by the governor.

f. Four members of the general assembly, as ex officio, nonvoting members.

Sec. 38. Section 231.58, subsection 4, paragraphs b and i, Code 2009, are amended to read as follows:

b. Develop common intake and release procedures for the purpose of determining eligibility at one point of intake and determining eligibility for programs administered by the departments of human services, and public health, and ~~elder affairs the department on aging~~, such as the medical assistance program, federal food stamp program, homemaker=home health aide programs, and the case management program for frail elders administered by the department ~~of elder affairs on aging~~.

i. Consult with the state universities and other institutions with expertise in the area of ~~elder issues~~ older Iowans and the long-term care continua.

Sec. 39. NEW SECTION. 231.64 AGING AND DISABILITY RESOURCE CENTER PROGRAM.

The aging and disability resource center program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program

is to provide a coordinated local system of information and access in order to minimize confusion, enhance individual choice, and support informed decision making for older individuals, persons with disabilities age eighteen or older, and people who inquire about, or request assistance on behalf of, members of these groups as they seek long-term care services and supports.

Sec. 40. NEW SECTION. 231.65 LEGAL ASSISTANCE DEVELOPMENT PROGRAM.

A legal assistance development program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program is to provide leadership for improving the quality and quantity of legal advocacy assistance as a means of ensuring a comprehensive elder rights system for Iowa's older individuals. The extent of implementation of this program shall be based on available resources.

Sec. 41. NEW SECTION. 231.66 NUTRITION PROGRAM.

A nutrition program shall be administered by the department, in accordance with the requirements of the federal Act, including congregate and home-delivered nutrition programs, nutrition education, nutrition counseling, and evidence-based health promotion programs to promote health and well-being, reduce food insecurity, promote socialization, and maximize independence of older individuals.

Sec. 42. Section 231B.19, Code 2009, is amended to read as follows:

231B.19 RESIDENT ADVOCATE COMMITTEES.

The commission of ~~elder affairs on aging~~ shall adopt by rule procedures for appointing members of resident advocate committees for elder group homes.

Sec. 43. Section 231E.3, subsections 2, 6, and 7, Code 2009, are amended to read as follows:

2. "Commission" means the commission of ~~elder affairs on aging~~.

6. "Department" means the department of ~~elder affairs on aging~~ established in section 231.21.

7. "Director" means the director of the department of ~~elder affairs on aging~~.

Sec. 44. Section 231E.4, subsection 2, Code 2009, is amended to read as follows:

2. The director shall appoint an administrator of the state office who shall serve as the state substitute decision maker. The state substitute decision maker shall be qualified for the position by training and expertise in substitute decision-making law and shall be licensed to practice law in Iowa. The state substitute decision maker shall also have knowledge of social services available to meet the needs of persons adjudicated incompetent or in need of substitute decision making.

Sec. 45. Section 231E.4, subsection 3, paragraph j, Code 2009, is amended to read as follows:

j. Develop, in cooperation with the judicial council as established in section 602.1202, a substitute decision-maker education and training program. The program may be offered to both public and private substitute decision makers. The state office shall establish a curriculum committee, which includes but is not limited to probate judges, to develop the education and training program. The state office shall be the sole authority for certifying additional curriculum trainers.

Sec. 46. Section 231E.4, subsection 4, paragraphs a and b, Code 2009, are amended to read as follows:

a. Accept and receive gifts, grants, or donations from any public or private entity in support of the state office. Such gifts, grants, or donations shall be appropriated pursuant to section 231E.9. Notwithstanding section 8.33, moneys retained by the department pursuant to this section shall not be subject to reversion to the general fund of the state.

b. Accept the services of individual volunteers and volunteer organizations. Volunteers and volunteer organizations utilized by the state office shall not provide direct substitute decision-making services.

Sec. 47. Section 231E.6, Code 2009, is amended to read as follows:

231E.6 COURT=INITIATED OR PETITION=INITIATED APPOINTMENT OF STATE OR LOCAL SUBSTITUTE DECISION MAKER == GUARDIANSHIP OR CONSERVATORSHIP == DISCHARGE.

1. The court may appoint on its own motion or upon petition of any person, the state office or local office of substitute decision maker, to serve as guardian or conservator for any proposed ward in cases in which the court determines



that the proceeding will establish the least restrictive form of substitute decision making suitable for the proposed ward and if the proposed ward meets all of the following criteria:

1- a. Is a resident of the planning and service area in which the local office is located from which services would be provided or is a resident of the state, if the state office would provide the services.

2- b. Is eighteen years of age or older.

3- c. Does not have suitable family or another appropriate entity willing and able to serve as guardian or conservator.

4- d. Is incompetent.

5- e. Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.

2. For all appointments made pursuant to this section, notice shall be provided to the state office or local office of substitute decision maker prior to appointment. For appointments made pursuant to this section, the state office or local office of substitute decision maker shall only accept appointments made pursuant to the filing of an involuntary petition for appointment of a conservator or guardianship pursuant to chapter 633.

Sec. 48. Section 231E.7, Code 2009, is amended to read as follows:

231E.7 SUBSTITUTE DECISION MAKER=INITIATED APPOINTMENT == INTERVENTIONS.

The state office or local office may on its own motion or at the request of the court intervene in a guardianship or conservatorship proceeding if the state office or local office or the court considers the intervention to be justified because of any of the following:

1. An appointed guardian or conservator is not fulfilling prescribed duties or is subject to removal under section 633.65.

2. A willing and qualified guardian or conservator is not available.

3. The best interests of the ward require the intervention.

Sec. 49. Section 231E.8, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The state or a local substitute decision maker may petition to be removed as guardian or conservator. A petition for removal shall be granted for any of the following reasons:

a. The ward displays assaultive or aggressive behavior that causes the substitute decision maker to fear for their personal safety.

b. The ward refuses the services of the substitute decision maker.

c. The ward refuses to have contact with the substitute decision maker.

d. The ward moves out of Iowa.

NEW SUBSECTION. 7. An appointment nominating the state office or a local office under a power of attorney shall not take effect unless the nominated state or local office has consented to the appointment in writing.

Sec. 50. Section 235B.1, subsection 4, paragraph b, subparagraph (1), Code 2009, is amended to read as follows:

(1) The advisory council shall consist of twelve members. Six members shall be appointed by and serve at the pleasure of the governor. Four of the members appointed shall be appointed on the basis of knowledge and skill related to expertise in the area of dependent adult abuse including professionals practicing in the disciplines of medicine, public health, mental health, long-term care, social work, law, and law enforcement. Two of the members appointed shall be members of the general public with an interest in the area of dependent adult abuse and two of the members appointed shall be members of the Iowa caregivers association. In addition, the membership of the council shall include the director or the director's designee of the department of human services, the department of ~~elder affairs~~ on aging, the Iowa department of public health, and the department of inspections and appeals.

Sec. 51. Section 235B.6, subsection 2, paragraph e, subparagraph (11), Code 2009, is amended to read as follows:

(11) The state office or a local office of substitute decision maker as defined in section 231E.3, ~~appointed by the court as a guardian or conservator of the adult named in a report as the victim of abuse or the person designated to be~~

~~responsible for performing or obtaining protective services on behalf of a dependent adult pursuant to section 235B.18 if the information relates to the provision of legal services for a client served by the state or local office of substitute decision maker.~~

Sec. 52. Section 235B.6, subsection 2, paragraph e, Code 2009, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (14) The department on aging for the purposes of conducting background checks of applicants for employment with the department on aging.

Sec. 53. Section 235B.16, subsections 1 and 2, Code 2009, are amended to read as follows:

1. The department ~~of elder affairs on aging~~, in cooperation with the department, shall conduct a public information and education program. The elements and goals of the program include but are not limited to:

a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.

b. Providing caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.

c. Affecting public attitudes regarding the role of a dependent adult in society.

2. The department, in cooperation with the department ~~of elder affairs on aging~~ and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

Sec. 54. Section 235B.16, subsection 5, paragraph d, subparagraph (3), Code 2009, is amended to read as follows:

(3) A training program using such an approved curriculum offered by the department of human services, the department ~~of elder affairs on aging~~, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

Sec. 55. Section 249A.4B, subsection 2, paragraph d, Code 2009, is amended to read as follows:

d. The director of the department ~~of elder affairs on aging~~, or the director's designee.

Sec. 56. Section 249H.3, subsections 1 and 12, Code 2009, are amended to read as follows:

1. "Affordable" means rates for payment of services which do not exceed the rates established for providers of medical and health services under the medical assistance program with eligibility for an individual equal to the eligibility for medical assistance pursuant to section 249A.3. In relation to services provided by a provider of services under a home and community-based services waiver, "affordable" means that the total monthly cost of the services provided under the home and community-based services waiver does not exceed the cost for that level of care as established by rule by the department of human services, pursuant to chapter 17A, in consultation with the department ~~of elder affairs on aging~~.

12. "Senior living coordinating unit" means the senior living coordinating unit created within the department ~~of elder affairs on aging~~ pursuant to section 231.58, or its designee.

Sec. 57. Section 249H.5, subsection 1, Code 2009, is amended to read as follows:

1. Moneys deposited in the senior living trust fund created in section 249H.4 shall be used only as provided in appropriations from the trust fund to the department of human services and the department ~~of elder affairs on aging~~, and for purposes, including the awarding of grants, as specified in this chapter.

Sec. 58. Section 249H.5, subsection 2, paragraph b, Code 2009, is amended to read as follows:

b. To the department ~~of elder affairs on aging~~, an amount necessary, annually, for expenses incurred in implementation and administration of the long-term care alternatives programs and for delivery of long-term care services to seniors with low or moderate incomes.

Sec. 59. Section 249H.7, Code 2009, is amended to read as follows:

249H.7 HOME AND COMMUNITY-BASED SERVICES FOR SENIORS.

1. Beginning October 1, 2000, the department ~~of elder~~

~~affairs on aging~~, in consultation with the senior living coordinating unit, shall use funds appropriated from the senior living trust fund for activities related to the design, maintenance, or expansion of home and community-based services for seniors, including but not limited to adult day services, personal care, respite, homemaker, chore, and transportation services designed to promote the independence of and to delay the use of institutional care by seniors with low and moderate incomes. At any time that moneys are appropriated, the department of ~~elder affairs on aging~~, in consultation with the senior living coordinating unit, shall disburse the funds to the area agencies on aging.

2. The department of ~~elder affairs on aging~~ shall adopt rules, in consultation with the senior living coordinating unit and the area agencies on aging, pursuant to chapter 17A, to provide all of the following:

a. (1) The criteria and process for disbursement of funds, appropriated in accordance with subsection 1, to area agencies on aging.

(2) The criteria shall include, at a minimum, all of the following:

(a) A distribution formula that triple weights all of the following:

(i) Individuals seventy-five years of age and older.

(ii) Individuals aged sixty and older who are members of a racial minority.

(iii) Individuals sixty years of age and older who reside in rural areas as defined in the federal Older Americans Act.

(iv) Individuals who are sixty years of age and older who have incomes at or below the poverty level as defined in the federal Older Americans Act.

(b) A distribution formula that single weights individuals sixty years of age and older who do not meet the criteria specified in subparagraph ~~subdivision~~ division (a).

b. The criteria for long-term care providers to receive funding as subcontractors of the area agencies on aging.

c. Other procedures the department of ~~elder affairs on aging~~ deems necessary for the proper administration of this section, including but not limited to the submission of progress reports, on a bimonthly basis, to the senior living coordinating unit.

3. This section does not create an entitlement to any funds available for disbursement under this section and the department of ~~elder affairs on aging~~ may only disburse moneys to the extent funds are available and, within its discretion, to the extent requests for funding are approved.

4. Long-term care providers that receive funding under this section shall submit annual reports to the appropriate area agency on aging. The department of ~~elder affairs on aging~~ shall develop the report to be submitted, which shall include, but is not limited to, units of service provided, the number of service recipients, costs, and the number of units of service identified as necessitated but not provided.

5. The department of ~~elder affairs on aging~~, in cooperation with the department of human services, shall provide annual reports to the governor and the general assembly concerning the impact of moneys disbursed under this section on the availability of long-term care services in Iowa. The reports shall include the types of services funded, the outcome of those services, and the number of individuals receiving those services.

Sec. 60. Section 249H.9, Code 2009, is amended to read as follows:

249H.9 SENIOR LIVING PROGRAM INFORMATION == ELECTRONIC ACCESS == EDUCATION == ADVISORY COUNCIL.

1. The department of ~~elder affairs on aging~~ and the area agencies on aging, in consultation with the senior living coordinating unit, shall create, on a county basis, a database directory of all health care and support services available to seniors. The department of ~~elder affairs on aging~~ shall make the database electronically available to the public, and shall update the database on at least a monthly basis.

2. The department of ~~elder affairs on aging~~ shall seek foundation funding to develop and provide an educational program for individuals aged twenty-one and older which assists participants in planning for and financing health care services and other supports in their senior years.

3. The department of human services shall develop and distribute an informational packet to the public that explains, in layperson terms, the law, regulations, and rules under the medical assistance program relative to health care

services options for seniors, including but not limited to those relating to transfer of assets, prepaid funeral expenses, and life insurance policies.

4. The director of human services, the director of the department of ~~elder affairs on aging~~, the director of public health, the director of the department of inspections and appeals, the director of revenue, and the commissioner of insurance shall constitute a senior advisory council to provide oversight in the development and operation of all informational aspects of the senior living program under this section.

Sec. 61. Section 249H.10, Code 2009, is amended to read as follows:

249H.10 CAREGIVER SUPPORT == ACCESS AND EDUCATION PROGRAMS.

The department of human services and the department of ~~elder affairs on aging~~, in consultation with the senior living coordinating unit, shall implement a caregiver support program to provide access to respite care and to provide education to caregivers in providing appropriate care to seniors and persons with disabilities. The program shall be provided through the area agencies on aging or other appropriate agencies.

Sec. 62. Section 324A.4, subsection 2, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Upon request, the department shall provide assistance to political subdivisions, state agencies, and organizations affected by this chapter for federal aid applications for urban and rural transit system program aid. The department, in cooperation with the regional planning agencies, shall maintain current information reflecting the amount of federal, state, and local aid received by the public and private nonprofit organizations providing public transit services and the purpose for which the aid is received. The department shall annually prepare a report to be submitted to the general assembly, the department of management, and to the governor, prior to February 1 of each year, stating the receipts and disbursements made during the preceding fiscal year and the adequacy of programs financed by federal, state, local, and private aid in the state. The department shall analyze the programs financed and recommend methods of avoiding duplication and increasing the efficacy of programs financed. The department shall receive comments from the department of human services, department of ~~elder affairs on aging~~, and the officers and agents of the other affected state and local government units relative to the department's analysis. The department shall use the following criteria to adopt rules to determine compliance with and exceptions to subsection 1:

Sec. 63. Section 324A.5, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The department of human services, department of ~~elder affairs on aging~~, and the officers and agents of other state and local governmental units shall assist the department in carrying out section 324A.4, subsections 1 and 2, insofar as the functions of these respective officers and departments are concerned with the health, welfare and safety of any recipient of transportation services.

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JOHN P. KIBBIE  
President of the Senate

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PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 204, Eighty-third General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2009

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CHESTER J. CULVER  
Governor

