

MAR 20 1995

HUMAN RESOURCES

HOUSE FILE 491
BY MURPHY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the office of the state long-term care
2 ombudsman, specifying the duties of the ombudsman, providing
3 for local ombudsman entities, and providing a penalty.

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

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HF 491

1 Section 1. Section 135C.2, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. The office of the long-term care
4 ombudsman created in section 231.41A, is recognized under this
5 chapter as an entity legally authorized and constituted to
6 ensure the implementation of the purposes of this chapter for
7 populations under its authority as designated in the federal
8 Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as
9 amended.

10 Sec. 2. Section 135C.2, subsection 5, paragraph f, Code
11 1995, is amended by adding the following new subparagraph:

12 NEW SUBPARAGRAPH. (8) The state long-term care ombudsman.

13 Sec. 3. Section 135C.17, Code 1995, is amended to read as
14 follows:

15 135C.17 DUTIES OF OTHER DEPARTMENTS.

16 It shall be the duty of the department of human services,
17 state fire marshal, and the officers and agents of other state
18 and local governmental units, ~~and~~ the designated protection
19 and advocacy agency, and the office of the state long-term
20 care ombudsman to assist the department in carrying out the
21 provisions of this chapter, insofar as the functions of these
22 respective offices and departments are concerned with the
23 health, welfare, and safety of any resident of any health care
24 facility. It shall be the duty of the department to cooperate
25 with the protection and advocacy agency by responding to all
26 reasonable requests for assistance and information as required
27 by federal law and this chapter.

28 Sec. 4. Section 135C.21, subsection 2, unnumbered
29 paragraph 1, Code 1995, is amended to read as follows:

30 Any person who prevents or interferes with or attempts to
31 impede in any way any duly authorized representative of the
32 department, the office of the state long-term care ombudsman,
33 or of any of the agencies referred to in section 135C.17 in
34 the lawful enforcement of this chapter or of the rules adopted
35 pursuant to it is guilty of a simple misdemeanor. As used in

1 this subsection, lawful enforcement includes but is not
2 limited to:

3 Sec. 5. Section 135C.37, Code 1995, is amended to read as
4 follows:

5 135C.37 COMPLAINTS ALLEGING VIOLATIONS -- CONFIDENTIALITY.

6 A person may request an inspection of a health care
7 facility by filing with the department, care review committee
8 of the facility, or the office of the state long-term care
9 ~~resident's-advocate~~ ombudsman as defined in section 231.4,
10 ~~subsection-167~~ a complaint of an alleged violation of
11 applicable requirements of this chapter or the rules adopted
12 pursuant to this chapter. A person alleging abuse or neglect
13 of a resident with a developmental disability or with mental
14 illness may also file a complaint with the protection and
15 advocacy agency designated pursuant to section 135B.9 or
16 section 135C.2. A copy of a complaint filed with the care
17 review committee or the office of the state long-term care
18 ~~resident's-advocate~~ ombudsman shall be forwarded to the
19 department. The complaint shall state in a reasonably
20 specific manner the basis of the complaint, and a statement of
21 the nature of the complaint shall be delivered to the facility
22 involved at the time of the inspection. The name of the
23 person who files a complaint with the department, care review
24 committee, or the office of the state long-term care
25 ~~resident's-advocate~~ ombudsman shall be kept confidential and
26 shall not be subject to discovery, subpoena, or other means of
27 legal compulsion for its release to a person other than
28 department employees involved in the investigation of the
29 complaint.

30 Sec. 6. Section 135C.38, subsection 1, paragraphs a and c,
31 Code 1995, are amended to read as follows:

32 a. Upon receipt of a complaint made in accordance with
33 section 135C.37, the department, the office of the long-term
34 care ombudsman, or care review committee shall make a
35 preliminary review of the complaint. Unless the department,

1 office, or committee concludes that the complaint is intended
2 to harass a facility or a licensee or is without reasonable
3 basis, it shall within twenty working days of receipt of the
4 complaint make or cause to be made an on-site inspection of
5 the health care facility which is the subject of the
6 complaint.

7 c. The department may refer to the office of the state
8 long-term care ombudsman or care review committee of a
9 facility any complaint received by the department regarding
10 that facility, for initial evaluation and appropriate action
11 by the office or committee.

12 Sec. 7. Section 135C.38, subsection 2, paragraphs a and d,
13 Code 1995, are amended to read as follows:

14 a. The complainant shall be promptly informed of the
15 result of any action taken by the department, office, or
16 committee in the matter. The complainant shall also be
17 notified of the name, address, and telephone number of the
18 office of the long-term care ombudsman and of the designated
19 protection and advocacy agency if the alleged violation
20 involves a facility with one or more residents with
21 developmental disabilities or mental illness.

22 d. A person who is dissatisfied with any aspect of the
23 department's handling of the complaint may contact the office
24 of the long-term care resident's-advocate ombudsman,
25 established pursuant to section ~~231.42~~ 231.41A, or may contact
26 the protection and advocacy agency designated pursuant to
27 section 135C.2 if the complaint relates to a resident with a
28 developmental disability or a mental illness.

29 Sec. 8. Section 135C.39, Code 1995, is amended to read as
30 follows:

31 135C.39 NO ADVANCE NOTICE OF INSPECTION -- EXCEPTION.
32 ~~No-advance~~ Advance notice of an on-site inspection made
33 pursuant to section 135C.38 shall not be given to the health
34 care facility or the licensee ~~thereof~~ of the health care
35 facility unless ~~previously-and-specifically-authorized-in~~

1 ~~writing-by-the-director-or~~ required by federal law. The
2 person in charge of the facility shall be informed of the
3 substance of the complaint at the commencement of the on-site
4 inspection.

5 Sec. 9. Section 135C.41, Code 1995, is amended to read as
6 follows:

7 135C.41 LICENSEE'S RESPONSE TO SURVEY FINDINGS OR
8 CITATION.

9 Within twenty business working days after service of survey
10 of findings or of a citation under section 135C.40, ~~a-facility~~
11 ~~shall-either:~~

12 1. If ~~it-does~~ the facility, the state long-term care
13 ombudsman, a resident, or a resident's legal representative
14 does not desire to contest the survey findings or citation,
15 the facility shall do one of the following:

16 a. Remit to the department the amount specified by the
17 department pursuant to section 135C.36 as a penalty for each
18 Class I violation cited, and for each Class II violation
19 unless the citation specifically waives the penalty, which
20 funds shall be paid by the department into the state treasury
21 and credited to the general fund, ~~or.~~

22 b. In the case of a Class II violation for which the
23 penalty has been waived in accordance with the standards
24 prescribed in section 135C.36, subsection 2, or a Class III
25 violation, send to the department a written response
26 acknowledging that the citation has been received and stating
27 that the violation will be corrected within the specific
28 period of time allowed by the citation, ~~or.~~

29 2. Notify If a facility, the state long-term care
30 ombudsman, a resident, or a resident's legal representative
31 desires to contest the survey findings or citation, the person
32 contesting the survey findings or citation shall notify the
33 director that-the-facility-desires of the desire to contest
34 the survey findings or citation and, in the case of citations
35 for Class II or Class III violations, request an informal

1 conference with a representative of the department.

2 Sec. 10. Section 135C.42, Code 1995, is amended to read as
3 follows:

4 135C.42 INFORMAL CONFERENCE ON CONTESTED SURVEY FINDINGS
5 OR CITATION.

6 The director shall assign a representative of the
7 department, other than the inspector upon whose inspection the
8 contested survey findings or citation is based, to hold an
9 informal conference with the facility requesting party within
10 ten working days after receipt of a request made under section
11 135C.41, subsection 2. At the conclusion of the conference
12 the representative may affirm or may modify or dismiss the
13 survey findings or citation. In the latter case, the
14 representative shall state in writing the specific reasons for
15 the modification or dismissal and immediately transmit copies
16 of the statement to the director, and to the facility
17 requesting party, and to the office of the state long-term
18 care ombudsman if the office is not the requesting party. If
19 the facility requesting party does not desire to further
20 contest ~~an~~ the affirmed or modified survey findings or
21 citation, it the facility shall within five working days after
22 the informal conference, or after receipt of the written
23 explanation of the representative, as the case may be, comply
24 with section 135C.41, subsection 1, if the matter relates to a
25 citation of the facility.

26 Sec. 11. Section 135C.46, Code 1995, is amended to read as
27 follows:

28 135C.46 RETALIATION BY FACILITY PROHIBITED.

29 1. A facility shall not discriminate or retaliate in any
30 way against a resident, a resident's representative, or an
31 employee of the facility who has initiated or participated in
32 any proceeding authorized by this chapter. A facility which
33 violates this section is subject to a penalty of not less than
34 two hundred fifty nor more than five thousand dollars, to be
35 assessed and collected by the director in substantially the

1 manner prescribed by sections 135C.40 to 135C.43 and paid into
2 the state treasury to be credited to the general fund, or to
3 immediate revocation of the facility's license.

4 2. Any attempt to expel from a health care facility a
5 resident by whom or upon whose behalf a complaint has been
6 submitted to the department under section 135C.37, within
7 ninety one hundred twenty days after the filing of the
8 complaint or the conclusion of any proceeding resulting from
9 the complaint, shall raise a rebuttable presumption that the
10 action was taken by the licensee in retaliation for the filing
11 of the complaint.

12 Sec. 12. Section 231.4, Code 1995, is amended by adding
13 the following new subsections:

14 NEW SUBSECTION. 13A. "Local ombudsman entity" means an
15 organization designated pursuant to section 231.41A to carry
16 out the duties described in section 231.41A with respect to a
17 planning and service area or other designated area.

18 NEW SUBSECTION. 15A. "Office" means the office of the
19 state long-term care ombudsman created in section 231.41A.

20 NEW SUBSECTION. 15B. "Ombudsman" means the individual
21 appointed pursuant to section 231.41A to administer the office
22 of the state long-term care ombudsman.

23 NEW SUBSECTION. 15C. "Program" means the state long-term
24 care ombudsman program created in section 231.41A and
25 administered by the ombudsman.

26 NEW SUBSECTION. 15D. "Representative" means an employee
27 or volunteer who represents a local ombudsman entity and who
28 is individually designated by the ombudsman.

29 NEW SUBSECTION. 15E. "Resident" means an individual who
30 resides in a long-term care facility.

31 Sec. 13. Section 231.4, subsection 16, Code 1995, is
32 amended by striking the subsection.

33 Sec. 14. Section 231.33, subsection 18, Code 1995, is
34 amended to read as follows:

35 18. Coordinate activities in support of the statewide

1 state long-term care resident's-advocate ombudsman program.

2 Sec. 15. NEW SECTION. 231.41A LONG-TERM CARE OMBUDSMAN
3 PROGRAM -- ESTABLISHED.

4 1. The department shall establish the office of the state
5 long-term care ombudsman.

6 2. The office shall be administered by an individual,
7 known as the state long-term care ombudsman, who shall be
8 selected from among individuals with expertise and experience
9 in the fields of long-term care and advocacy.

10 3. The ombudsman shall serve on a full-time basis and
11 shall personally or through representatives of the office do
12 all of the following:

13 a. Identify, investigate, and resolve complaints that are
14 made by or on behalf of residents and relate to action,
15 inaction, or decisions that may adversely affect the health,
16 safety, welfare, or rights of the residents, including but not
17 limited to the welfare and rights of the residents with
18 respect to the appointment and activities of guardians,
19 conservators, or representative payees of providers or
20 representatives of providers of long-term care services,
21 public agencies, or persons who contract with public agencies,
22 or health and social service agencies.

23 b. Provide services to assist residents in protecting the
24 health, safety, welfare, and rights of the residents.

25 c. Inform the residents of the means of obtaining services
26 provided by providers or agencies described in paragraph "a"
27 or "b".

28 d. Ensure that the residents have regular and timely
29 access to the services provided through the office and that
30 the residents and complainants receive timely responses from
31 representatives of the office to complaints.

32 e. Represent the interests of the residents before
33 governmental agencies and seek administrative, legal, and
34 other remedies to protect the health, safety, welfare, and
35 rights of the residents.

1 f. Provide administrative and technical assistance to
2 local ombudsman entities to assist the entities in
3 participating in the program.

4 g. Analyze, comment on, and monitor the development and
5 implementation of federal, state, and local laws, regulations,
6 rules, and other governmental policies and actions that
7 pertain to the health, safety, welfare, and rights of the
8 residents with respect to the adequacy of long-term care
9 facilities and services in the state and do all of the
10 following:

11 (1) Recommend any changes in the laws, regulations, rules,
12 policies, and actions as the office determines appropriate.

13 (2) Facilitate public comment on the laws, regulations,
14 rules, policies, and actions.

15 h. Provide for training of the representatives of the
16 office including all of the following:

17 (1) Promote the development of citizen organizations, to
18 participate in the program.

19 (2) Provide technical support for the development of
20 resident and family councils to protect the well-being and
21 rights of residents.

22 i. Administer the care review committee program.

23 4. a. Except as provided in paragraph "b", the department
24 may establish and operate the office and carry out the program
25 directly or by contract or other arrangement with any public
26 agency or nonprofit private organization.

27 b. The department shall not enter into the contract or
28 other arrangement described in paragraph "a" with any of the
29 following:

30 (1) An agency or organization that is responsible for
31 licensing or certifying long-term care services in the state.

32 (2) An association of an affiliate or an association of
33 long-term care facilities, or of any other residential
34 facilities for use by elders.

35 5. a. In carrying out the duties of the office, the

1 ombudsman may designate an entity as a local ombudsman entity,
2 and may designate a representative of the entity.

3 b. A local ombudsman entity shall in accordance with the
4 policies and procedures adopted by the department for the
5 ombudsman do all of the following:

6 (1) Provide services to protect the health, safety,
7 welfare, and rights of the residents.

8 (2) Ensure that residents in the service area of the
9 entity have regular, timely access to representatives of the
10 program and timely responses to complaints and requests for
11 assistance.

12 (3) Identify, investigate, and resolve complaints made by
13 or on behalf of residents that relate to action, inaction, or
14 decisions that may adversely affect the health, safety,
15 welfare, or rights of the residents.

16 (4) Represent the interests of residents before government
17 agencies and seek administrative, legal, and other remedies to
18 protect the health, safety, welfare, and rights of the
19 residents.

20 (5) Review and, if necessary, comment on any existing and
21 proposed laws, regulations, rules, and any other governmental
22 policy or action that pertain to the rights and well-being of
23 a resident and do all of the following:

24 (a) Facilitate the ability of the public to comment on the
25 laws, regulations, rules, policies, and actions.

26 (b) Support the development of resident and family
27 councils.

28 (c) Carry out other activities which the ombudsman
29 determines to be appropriate.

30 c. Local ombudsman entities and individuals eligible to be
31 representatives of local ombudsman entities shall do all of
32 the following:

33 (1) Have a demonstrated capability to carry out the duties
34 of the office.

35 (2) Be free of conflicts of interest.

1 (3) Meet additional requirements as the ombudsman
2 specifies.

3 d. (1) The department shall establish, in cooperation
4 with the office, policies and procedures for the monitoring of
5 local ombudsman entities.

6 (2) If the local ombudsman entity is a grantee or the
7 representative is an employee of an area agency on aging, the
8 department shall develop the policies in consultation with the
9 area agencies on aging. The policies shall provide for
10 participation and comment by the agencies and for resolution
11 of concerns with respect to case activity.

12 (3) The department shall develop the policies and
13 procedures in accordance with all provisions of this chapter
14 regarding confidentiality and conflict of interest.

15 e. Representatives of the office shall be provided with
16 all of the following:

17 (1) Access to long-term care facilities and residents.

18 (2) Appropriate access to review the medical and social
19 records of a resident if any of the following applies:

20 (a) The representative has the permission of the resident,
21 or the legal representative of the resident.

22 (b) The resident is unable to consent to the review and
23 has no legal representative.

24 (3) Access to the medical and social records of the
25 resident as is necessary to investigate a complaint if all of
26 the following applies:

27 (a) A legal representative of the resident refuses to
28 provide permission for access.

29 (b) A representative of the office has reasonable cause to
30 believe that the legal representative is not acting in the
31 best interest of the resident.

32 (c) The representative obtains prior approval of the
33 ombudsman.

34 (4) Access to the administrative records, policies, and
35 documents to which the residents have or the general public

1 has access to long-term care facilities.

2 (5) Access to and, upon request, copies of all licensing
3 and certification records maintained by the state with respect
4 to a long-term care facility.

5 The department shall establish procedures to ensure the
6 access described under this paragraph.

7 f. The department shall establish a statewide uniform
8 reporting system to do all of the following:

9 (1) Collect and analyze data relating to complaints and
10 conditions in long-term care facilities and to residents for
11 the purpose of identifying and resolving significant problems.

12 (2) Submit the data on a regular basis to all of the
13 following:

14 (a) The department of inspections and appeals.

15 (b) Other state and federal entities that the ombudsman
16 determines to be appropriate.

17 (c) The commission.

18 (d) The national ombudsman resource center established
19 under the federal Act.

20 g. (1) The department shall establish procedures for the
21 disclosure by the ombudsman or local ombudsman entities of
22 records maintained by the program.

23 (2) The procedures shall include all of the following:

24 (a) Provision that, subject to the exceptions provided in
25 subparagraph subdivision (b), the records may be disclosed
26 only at the discretion of the ombudsman or the person
27 designated by the ombudsman to disclose the records.

28 (b) Prohibit the disclosure of the identity of any
29 complainant or resident with respect to whom the office
30 maintains the records unless one of the following applies:

31 (i) The complainant or resident, or the legal
32 representative of the complainant or resident, consents to the
33 disclosure and the consent is provided in writing.

34 (ii) The complainant or resident provides oral consent and
35 the consent is documented contemporaneously in writing by a

1 representative of the office in accordance with requirements
2 as the department establishes.

3 h. In planning and operating the program, the department
4 shall consider the views of area agencies on aging, elders,
5 and providers of long-term care.

6 i. All of the following shall apply in determining a
7 conflict of interest.

8 (1) An individual, or member of the immediate family of an
9 individual, involved in the designation of the ombudsman or
10 the designation of a local ombudsman entity shall be deemed to
11 have a conflict of interest.

12 (2) An officer or employee of the office, representative
13 of a local ombudsman entity, or member of the immediate family
14 of the officer, employee, or representative shall be deemed to
15 have a conflict of interest.

16 (3) All of the following apply to the ombudsman regarding
17 a conflict of interest:

18 (a) The ombudsman shall not have a direct involvement in
19 the licensing or certification of long-term care facilities or
20 of providers of long-term care services.

21 (b) The ombudsman shall not have an ownership or
22 investment interest represented by equity, debt, or other
23 financial relationship in a long-term care facility or a long-
24 term care service.

25 (c) The ombudsman shall not be employed by or participate
26 in the management of a long-term care facility.

27 (d) The ombudsman shall not receive or have the rights to
28 receive directly or indirectly remuneration in cash or in kind
29 under a compensation arrangement with an owner or operator of
30 a long-term care facility.

31 (4) The department shall establish, and shall specify in
32 writing, mechanisms to identify and remove conflicts of
33 interest referred to in this paragraph "i" and to identify and
34 eliminate the relationships described in this paragraph "i",
35 including but not limited to the methods by which the

1 department will examine individuals and immediate family
2 members to identify the conflicts and the actions that the
3 department will require the individuals and family members to
4 take to remove the conflict of interest.

5 j. The department shall ensure all of the following:

6 (1) That adequate legal counsel is available and is able
7 without conflict of interest to provide advice and
8 consultation necessary to protect the health, safety, welfare,
9 and rights of residents and to assist the ombudsman and
10 representatives of the office in the performance of the
11 official duties of the ombudsman and the representatives.

12 (2) That legal representation is provided to any
13 representative of the office against whom suit or other legal
14 action is brought or threatened to be brought in connection
15 with the performance of the official duties of the ombudsman
16 or representative.

17 (3) That the office pursues administrative, legal, and
18 other appropriate remedies on behalf of residents.

19 k. The ombudsman shall do all of the following:

20 (1) Prepare an annual report which includes all of the
21 following:

22 (a) A description of the activities carried out by the
23 office in the year for which the report is prepared.

24 (b) Information and an analysis of the information
25 collected under the uniform reporting system.

26 (c) An evaluation of the problems experienced by and the
27 complaints made by or on behalf of residents.

28 (d) Recommendations for improving the quality of care and
29 lives of residents and for protecting the health, safety,
30 welfare, and rights of residents.

31 (e) An analysis of the success of the program including
32 success in providing services to residents of board and care
33 facilities and other similar adult care facilities and
34 identification of barriers that prevent the optimal operation
35 of the program.

1 (f) Policy, regulatory, and legislative recommendations to
2 solve identified problems, to resolve the complaints, to
3 improve the quality of care and lives of residents, to remove
4 barriers to the quality of care and lives of residents, and to
5 protect the health, safety, welfare, and rights of residents.

6 (2) Analyze, comment on, and monitor the development and
7 implementation of federal, state, and local laws, regulations,
8 rules, and other government policies and actions that pertain
9 to long-term care facilities and services, and to the health,
10 safety, welfare, and rights of residents, in the state and
11 recommend any changes in the laws, regulations, rules, and
12 policies as the office determines to be appropriate.

13 (3) Provide information as the ombudsman determines to be
14 necessary to public and private agencies, members of the
15 general assembly, and other persons, regarding the problems
16 and concerns of elderly individuals residing in long-term care
17 facilities and recommendations related to the problems and
18 concerns.

19 (4) Provide and make available to the public, and submit
20 to the commission, the governor, the general assembly, the
21 department of inspections and appeals, and other appropriate
22 governmental entities, an annual report.

23 (5) Establish, review, and update procedures for the
24 training of the representatives of the office, including
25 unpaid volunteers, based on model standards established by the
26 federal associate commissioner for ombudsman programs, in
27 consultation with representatives of citizen groups, long-term
28 care providers, and others that do all of the following:

29 (a) Specify a minimum number of hours of initial training.

30 (b) Specify the content of the training, including
31 training relating to federal, state, and local laws,
32 regulations, rules, and policies with respect to long-term
33 care facilities in the state, investigative techniques, and
34 other matters that the department deems appropriate.

35 (c) Specify an annual number of hours of in-service

1 training for all designated representatives.

2 (6) Prohibit any representative of the office other than
3 the ombudsman from carrying out any activity described in this
4 section unless the representative has received the training
5 required under subparagraph (5) and has been approved by the
6 ombudsman as qualified to carry out the activity on behalf of
7 the office.

8 (7) Coordinate ombudsman services with the protection and
9 advocacy systems for individuals with developmental
10 disabilities and mental illnesses established under part A of
11 the federal Developmental Disabilities Assistance and Bill of
12 Rights Act, 42 U.S.C. § 6001 et seq., and the federal
13 Protection and Advocacy for Mentally Ill Individuals Act of
14 1986, 42 U.S.C. § 10801 et seq.

15 (8) Coordinate, to the greatest extent possible, ombudsman
16 services with legal assistance through adoption of memoranda
17 of understanding and other means.

18 (9) Permit any local ombudsman entity to carry out the
19 responsibilities described in subparagraph (1), (2), (3), (7),
20 or (8).

21 1. The ombudsman and any representative of the office as
22 designated in this subsection shall not be liable for an
23 action undertaken by the ombudsman or representative of the
24 office in the performance of duty, if the action is undertaken
25 and carried out in good faith.

26 m. Willful interference with representatives of the office
27 in the performance of the official duties of the
28 representatives is guilty of a simple misdemeanor.

29 n. A long-term care facility shall not retaliate against a
30 resident, employee, or other person for filing a complaint
31 with, providing information to, or otherwise cooperating with
32 a representative of the office.

33 o. The department shall adopt rules to establish
34 appropriate sanctions with respect to interference or
35 retaliation.

1 p. A person who interferes with or attempts to impede a
2 representative of the office is guilty of a simple
3 misdemeanor.

4 q. The office shall respond to complaints filed within
5 twenty working days of the filing of the complaint.

6 Sec. 16. Section 231.44, subsection 1, Code 1995, is
7 amended to read as follows:

8 1. The care review committee program is administered by
9 the state long-term care resident's-advocate ombudsman
10 program.

11 Sec. 17. Section 669.2, subsection 4, Code 1995, is
12 amended by adding the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. "Employee of the state" also
14 includes officers, agents, representatives, or employees of
15 and persons acting on behalf of the office of the state long-
16 term care ombudsman and the designated local ombudsman
17 entities.

18 Sec. 18. Section 669.14, Code 1995, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 14. Any claim based upon the actions of
21 the state long-term care ombudsman, representative of the
22 ombudsman, or local ombudsman entity in the performance of
23 duty if the action is undertaken and carried out in good
24 faith.

25 Sec. 19. Sections 231.41, 231.42, and 231.43, Code 1995,
26 are repealed.

27

EXPLANATION

28 This bill codifies the provisions related to the
29 establishment of the long-term care ombudsman program under
30 the federal Older Americans Act of 1965. The bill provides
31 specific requirements relating to the program rather than the
32 currently codified general references to the requirements of
33 the federal Act. New provisions include changing the name of
34 the program from the resident's advocate program to the state
35 long-term care ombudsman program; specifying that the

1 ombudsman is to be an individual with expertise and experience
2 in the fields of long-term care and advocacy; specifying the
3 duties of the ombudsman; providing for the development of
4 local ombudsman entities; specifying conflict of interest
5 provisions; specifying the information to be included in the
6 annual report of the ombudsman; and providing immunity for
7 officers, agents, representatives, or employees of and persons
8 acting on behalf of the office of the state long-term care
9 ombudsman and the designated local ombudsman entities for
10 actions taken in good faith in performance of duty. The bill
11 also provides for amendment of the provisions of the Code
12 relating to survey findings and citations relating to health
13 care facilities. The bill also makes conforming changes
14 throughout the Code to reflect the new references provided in
15 the bill.

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