

SENATE FILE 244
BY BARTZ

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

A BILL FOR

1 An Act relating to the establishment of area long-term care
2 resident's advocates in each of the area agencies on aging,
3 specifying minimum eligibility criteria, providing for an
4 appropriation, and providing an effective date.

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

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S.F. 244

1 Section 1. Section 231.42, Code 1995, is amended by adding
2 the following new subsection before unnumbered paragraph 2:

3 NEW SUBSECTION. 8. a. Establish an area long-term care
4 resident's advocate in each of the area agencies on aging
5 throughout the state, and establish a procedure for
6 certification of area resident's advocates. The certification
7 procedure shall require, at a minimum, that the area long-term
8 care resident's advocate has demonstrated the capability to
9 carry out the responsibilities of the office, be free of
10 conflicts of interest, be public or nonprofit private
11 entities, and meet any additional requirements as specified by
12 the state resident's advocate.

13 b. The state resident's advocate and the area resident's
14 advocates are not liable for any action undertaken by an area
15 resident's advocate in the performance of duty, if the action
16 is undertaken and carried out in good faith.

17 c. The area resident's advocates shall assist the state
18 resident's advocate by doing all of the following:

19 (1) Providing services to protect the health, safety,
20 welfare, and rights of residents in long-term care facilities.

21 (2) Ensuring that the residents of long-term care
22 facilities in the service area of the area resident's advocate
23 have regular, timely access to the area resident's advocate
24 and timely responses to complaints and requests for
25 assistance.

26 (3) Identifying, investigating, and resolving complaints
27 and grievances that may adversely affect the health, safety,
28 welfare, or rights of elderly residents in long-term care
29 facilities.

30 (4) Representing the interests of residents of long-term
31 care facilities before government agencies and seeking
32 administrative, legal, and other remedies to protect the
33 health, safety, welfare, and rights of the residents of long-
34 term care facilities.

35 (5) Providing information to other agencies and to the

1 public about the problems of the elderly in long-term care
2 facilities and facilitating the ability of the public to
3 comment on laws, regulations, and policies which affect the
4 elderly in long-term care facilities.

5 (6) Reviewing, and, if necessary, commenting on any
6 existing and proposed laws, rules, and other government
7 policies and actions that pertain to the rights and well-being
8 of residents.

9 (7) Developing and assisting care review committees in the
10 performance of their duties through recruitment, training, and
11 publicity.

12 (8) Assisting in the development of organizations to
13 participate in the long-term care resident's advocate program.

14 (9) Carrying out other activities that the state
15 resident's advocate determines to be appropriate.

16 d. The department of elder affairs shall establish, in
17 consultation with the state resident's advocate, policies and
18 procedures for monitoring area resident's advocates.

19 Sec. 2. Section 231.42, unnumbered paragraph 2, Code 1995,
20 is amended to read as follows:

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

27 Sec. 3. Section 231.43, subsection 3, Code 1995, is
28 amended to read as follows:

29 3. Procedures to enable the state long-term care
30 resident's advocate and area resident's advocates to elicit,
31 receive, and process complaints regarding administrative
32 actions which may adversely affect the health, safety,
33 welfare, or rights of elderly in long-term care facilities.

34 Sec. 4. AREA LONG-TERM CARE RESIDENT'S ADVOCATE PROGRAM --
35 PILOT PROJECT -- APPROPRIATION. There is appropriated from

1 the general fund of the state to the department of elder
2 affairs for the fiscal year beginning July 1, 1995, and ending
3 June 30, 1996, the following amount or so much thereof as is
4 necessary, to be used for the purpose designated:

5 For the establishment of a pilot program beginning July 1,
6 1995, and ending June 30, 1997, to create the position of area
7 long-term care resident's advocate in each of three area
8 agency on aging locations in the state to determine the
9 efficacy of establishing local advocates in all area agency on
10 aging planning and service area locations:

11 \$ 240,000

12 Notwithstanding section 8.33, the moneys appropriated in
13 this section that remain unencumbered and unobligated at the
14 end of any fiscal year shall not revert to the general fund
15 but shall remain available for expenditure during subsequent
16 fiscal years for the purposes for which originally
17 appropriated.

18 Sec. 5. EFFECTIVE DATE. Sections 1 through 3 of this Act
19 take effect July 1, 1997.

20 EXPLANATION

21 This bill provides for the establishment of area long-term
22 care resident's advocates in each of the area agency on aging
23 planning and service areas through the office of the state
24 long-term care resident's advocate, establishes the duties of
25 the local advocates, the minimum specifications for
26 eligibility as an area resident's advocate, provides for
27 immunity from liability for actions of the advocates
28 undertaken in good faith performance of their duties, makes
29 conforming changes, and establishes a pilot program to
30 determine the efficacy of establishing local advocates in all
31 areas. The bill provides for an appropriation of \$240,000 for
32 the pilot project and also provides that the statutory
33 provisions which establish the local advocates are effective
34 July 1, 1997, after completion of the pilot program.

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1 Amend Senate File 244 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 231.42, Code 1995, is amended
5 by adding the following new subsection before
6 unnumbered paragraph 2:

7 NEW SUBSECTION. 8. a. Establish a local long-
8 term care resident's advocate program in a designated
9 entity in each of the area agency on aging planning
10 and service areas throughout the state. The long-term
11 care resident's advocate, in consultation with the
12 department, shall establish a procedure for
13 certification of local resident's advocates. The
14 certification procedure shall require, at a minimum,
15 that the local long-term care resident's advocate has
16 demonstrated the capability to carry out the
17 responsibilities of the office, be free of conflicts
18 of interest, and meet any additional requirements as
19 specified by the state resident's advocate.

20 b. The state resident's advocate, the designated
21 entities in which local long-term care resident's
22 advocate programs are established, and the local
23 resident's advocates are not liable for any action
24 undertaken by a local resident's advocate in the
25 performance of duty, if the action is undertaken and
26 carried out in good faith.

27 c. The local resident's advocates shall assist the
28 state resident's advocate by doing, at a minimum, all
29 of the following:

30 (1) Providing services to protect the health,
31 safety, welfare, and rights of residents in long-term
32 care facilities.

33 (2) Ensuring that the residents of long-term care
34 facilities in the service area of the local long-term
35 care resident's advocate program have regular, timely
36 access to the local resident's advocate and are
37 provided timely responses to complaints and requests
38 for assistance.

39 (3) Identifying, investigating, and resolving
40 complaints and grievances that may adversely affect
41 the health, safety, welfare, or rights of residents in
42 long-term care facilities.

43 (4) Representing the interests of residents of
44 long-term care facilities before government agencies
45 and seeking administrative, legal, and other remedies
46 to protect the health, safety, welfare, and rights of
47 the residents of long-term care facilities.

48 (5) Providing information to other agencies and to
49 the public about the problems of residents in long-
50 term care facilities and facilitating the ability of

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1 the public to comment on laws, regulations, and
2 policies which affect the residents in long-term care
3 facilities.

4 (6) Reviewing, and, if necessary, commenting on
5 any existing and proposed laws, rules, and other
6 government policies and actions that pertain to the
7 rights and well-being of residents in long-term care
8 facilities.

9 (7) Developing and assisting care review
10 committees in the performance of their duties through
11 recruitment, training, and publicity.

12 (8) Supporting the development of resident and
13 family councils.

14 (9) Assisting in the development of consumer
15 organizations to participate in the local long-term
16 care resident's advocate program.

17 (10) Carrying out other activities that the state
18 resident's advocate determines to be appropriate.

19 d. The department of elder affairs shall
20 establish, in consultation with the state resident's
21 advocate, policies and procedures for monitoring local
22 long-term care resident's advocate programs, the
23 entities in which the programs are established, and
24 the local resident's advocates.

25 Sec. 2. Section 231.42, unnumbered paragraph 2,
26 Code 1995, is amended by striking the paragraph and
27 inserting in lieu thereof the following:

28 The state resident's advocate shall have access to
29 long-term care facilities, private access to
30 residents, access to residents' personal, social, and
31 medical records for the purpose of reviewing and upon
32 request copying the records, and access to other
33 records maintained by the facilities or governmental
34 agencies only as necessary and pertaining only to the
35 person on whose behalf a complaint is being
36 investigated. A local resident's advocate shall have
37 comparable access to facilities, residents, and
38 records as provided in this paragraph if the local
39 resident's advocate obtains consent from the resident
40 or from the resident's legal representative. If the
41 resident is unable to provide consent and the
42 resident's legal representative refuses to consent to
43 the access, access shall be granted if the local
44 resident's advocate has reasonable cause to believe
45 that the legal representative is not acting in the
46 resident's best interests and if the local resident's
47 advocate obtains approval from the state long-term
48 care resident's advocate.

49 Sec. 3. Section 231.43, subsection 3, Code 1995,
50 is amended to read as follows:

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1 3. Procedures to enable the state long-term care
 2 resident's advocate and local long-term care
 3 resident's advocates to elicit, receive, and process
 4 complaints regarding administrative actions which may
 5 adversely affect the health, safety, welfare, or
 6 rights of elderly residents in long-term care
 7 facilities.

8 Sec. 4. LOCAL LONG-TERM CARE RESIDENT'S ADVOCATE
 9 PROGRAM -- PILOT PROJECT -- APPROPRIATION. There is
 10 appropriated from the general fund of the state to the
 11 department of elder affairs for the fiscal year
 12 beginning July 1, 1996, and ending June 30, 1997, the
 13 following amount or so much thereof as is necessary,
 14 to be used for the purpose designated:

15 For the establishment of a pilot program beginning
 16 July 1, 1996, and ending June 30, 1998, to create the
 17 position of local long-term care resident's advocate
 18 in each of three agency on aging planning and service
 19 areas in the state to determine the efficacy of
 20 establishing local resident's advocates in all area
 21 agency on aging planning and service area locations:
 22 \$ 240,000

23 Notwithstanding section 8.33, the moneys
 24 appropriated in this section that remain unencumbered
 25 and unobligated at the end of any fiscal year shall
 26 not revert to the general fund but shall remain
 27 available for expenditure during subsequent fiscal
 28 years for the purposes for which originally
 29 appropriated.

30 Sec. 5. EFFECTIVE DATE. Sections 1 through 3 of
 31 this Act take effect July 1, 1998."

32 2. Title page, line 1, by striking the word
 33 "area" and inserting the following: "local".

34 3. Title page, line 2, by inserting after the
 35 word "aging" the following: "planning and service
 36 areas".

By MERLIN E. BARTZ