

Senate Study Bill 1140

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
ELDER AFFAIRS BILL)

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

A BILL FOR

1 An Act relating to the provisions of the elder Iowans Act.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 1268DP 81
4 pf/sh/8

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1 1 Section 1. Section 135C.37, Code 2005, is amended to read
1 2 as follows:
1 3 135C.37 COMPLAINTS ALLEGING VIOLATIONS == CONFIDENTIALITY.
1 4 A person may request an inspection of a health care
1 5 facility by filing with the department, resident advocate
1 6 committee of the facility, or the long-term care resident's
1 7 advocate as ~~defined in established pursuant to section 231.4,~~
~~1 8 subsection 16 231.42,~~ a complaint of an alleged violation of
1 9 applicable requirements of this chapter or the rules adopted
1 10 pursuant to this chapter. A person alleging abuse or neglect
1 11 of a resident with a developmental disability or with mental
1 12 illness may also file a complaint with the protection and
1 13 advocacy agency designated pursuant to section 135B.9 or
1 14 section 135C.2. A copy of a complaint filed with the resident
1 15 advocate committee or the long-term care resident's advocate
1 16 shall be forwarded to the department. The complaint shall
1 17 state in a reasonably specific manner the basis of the
1 18 complaint, and a statement of the nature of the complaint
1 19 shall be delivered to the facility involved at the time of the
1 20 inspection. The name of the person who files a complaint with
1 21 the department, resident advocate committee, or the long-term
1 22 care resident's advocate shall be kept confidential and shall
1 23 not be subject to discovery, subpoena, or other means of legal
1 24 compulsion for its release to a person other than department
1 25 employees involved in the investigation of the complaint.
1 26 Sec. 2. Section 231.3, subsection 4, Code 2005, is amended
1 27 to read as follows:
1 28 4. Full restorative services for those who require
1 29 institutional care, and a comprehensive array of home and
1 30 community-based, long-term care services adequate to sustain
1 31 older people in their communities and, whenever possible, in
1 32 their homes, including support for caregivers.
1 33 Sec. 3. Section 231.4, Code 2005, is amended to read as
1 34 follows:
1 35 231.4 DEFINITIONS.
2 1 For purposes of this chapter, unless the context otherwise
2 2 requires:
2 3 1. "Administrative action" means an action or decision
2 4 made by an owner, employee, or agent of a long-term care
2 5 facility, or by a governmental agency, which affects the
2 6 service provided to residents covered in this chapter.
2 7 2. "Commission" means the commission of elder affairs.
2 8 3. "Department" means the department of elder affairs.
2 9 4. "Director" means the director of the department of
2 10 elder affairs.
2 11 5. "Elder" means an individual who is sixty years of age
2 12 or older. ~~"Elderly" means individuals sixty years of age or~~
~~2 13 older.~~
2 14 6. "Equivalent support" means in-kind contributions of
2 15 services, goods, volunteer support time, administrative
2 16 support, or other support reasonably determined by the
2 17 department as equivalent to a dollar amount.
2 18 7. "Federal Act" means the Older Americans Act of 1965, 42

2 19 U.S.C. } 3001 et seq., as amended.

2 20 8. "Home and community-based services" means a continua of
2 21 services available in an individual's home or community which
2 22 include but are not limited to case management, homemaker,
2 23 home health aide, personal care, adult day, respite, home
2 24 delivered meals, nutrition counseling, and other medical and
2 25 social services which contribute to the health and well-being
2 26 of individuals and their ability to reside in a home or
2 27 community-based care setting.

2 28 ~~8-~~ 9. "Long-term care facility" means a long-term care
2 29 unit of a hospital or a facility licensed under section 135C.1
2 30 whether the facility is public or private.

2 31 ~~9-~~ 10. "Resident's advocate program" means the state
2 32 long-term care resident's advocate program operated by the
2 33 department of elder affairs and administered by the long-term
2 34 care resident's advocate.

2 35 ~~10-~~ 11. "Unit of general purpose local government" means
3 1 a political subdivision of the state whose authority is
3 2 general and not limited to one function or combination of
3 3 related functions.

3 4 For the purposes of this chapter, "focal point", "greatest
3 5 economic need", and "greatest social need" mean as those terms
3 6 are defined in the federal Act.

3 7 Sec. 4. Section 231.14, unnumbered paragraph 2, Code 2005,
3 8 is amended to read as follows:

3 9 The commission shall adopt administrative rules pursuant to
3 10 chapter 17A to ~~implement~~ administer the duties specified in
3 11 this chapter and in all other chapters under the department's
3 12 jurisdiction.

3 13 Sec. 5. Section 231.14, subsection 7, Code 2005, is
3 14 amended to read as follows:

3 15 7. Adopt a formula for the distribution of federal Act,
3 16 state ~~elderly~~ elder services, and senior living program funds
3 17 taking into account, to the maximum extent feasible, the best
3 18 available data on the geographic distribution of elders in the
3 19 state, and publish the formula for review and comment.

3 20 Sec. 6. Section 231.23, subsection 3, Code 2005, is
3 21 amended to read as follows:

3 22 3. Pursuant to commission policy, coordinate state
3 23 activities related to the purposes of this chapter and all
3 24 other chapters under the department's jurisdiction.

3 25 Sec. 7. Section 231.23A, subsection 1, Code 2005, is
3 26 amended to read as follows:

3 27 1. ~~Elderly~~ Elder services including but not limited to
3 28 home and community-based services such as adult day ~~services,~~
3 29 assessment and intervention, transportation, chore ~~services,~~
3 30 counseling, homemaker ~~services,~~ material aid, personal care,
3 31 reassurance, respite ~~services,~~ visitation, caregiver support,
3 32 emergency response system ~~services,~~ mental health outreach,
3 33 ~~and home repair, meals, and nutrition counseling.~~

3 34 Sec. 8. Section 231.33, subsections 4, 8, and 11, Code
3 35 2005, are amended to read as follows:

4 1 4. Provide technical assistance as needed, ~~prepare written~~
4 2 ~~monitoring reports at least~~ document quarterly monitoring, and
4 3 provide a written report of an annual on-site assessment of
4 4 all service providers funded by the area agency.

4 5 8. Assure that elders in the planning and service area
4 6 have reasonably convenient access to information and ~~referral~~
4 7 assistance services.

4 8 11. Contact outreach efforts, with special emphasis on ~~the~~
4 9 rural ~~elderly~~ elders, to identify elders with greatest
4 10 economic or social needs and inform them of the availability
4 11 of services under the area plan.

4 12 Sec. 9. Section 231.33, subsection 17, Code 2005, is
4 13 amended by striking the subsection.

4 14 Sec. 10. Section 231.42, unnumbered paragraph 1, Code
4 15 2005, is amended to read as follows:

4 16 The Iowa commission of elder affairs, in accordance with
4 17 section ~~3027(a)-(12)~~ 712 of the federal Act, as codified at 42
4 18 U.S.C. } 3058g, shall establish the office of long-term care

4 19 resident's advocate within the department. The long-term care
4 20 resident's advocate shall:

4 21 Sec. 11. Section 231.43, subsection 3, Code 2005, is
4 22 amended to read as follows:

4 23 3. Procedures to enable the long-term care resident's
4 24 advocate to elicit, receive, and process complaints regarding
4 25 administrative actions which may adversely affect the health,
4 26 safety, welfare, or rights of ~~elderly~~ elders in long-term care
4 27 facilities.

4 28 Sec. 12. Section 231.44, subsections 2 and 4, Code 2005,
4 29 are amended to read as follows:

4 30 2. The responsibilities of the resident advocate committee
4 31 are in accordance with the rules adopted by the commission
4 32 pursuant to chapter 17A. When adopting the rules, the
4 33 commission shall consider the needs of residents of elder
4 34 group homes as defined in section 231B.1 and each category of
4 35 licensed health care facility as defined in section 135C.1,
5 1 subsection 6, and the services each facility may render. ~~The~~
~~5 2 commission shall coordinate the development of rules with the~~
~~5 3 mental health, mental retardation, developmental disabilities,~~
~~5 4 and brain injury commission created in section 225C.5 to the~~
~~5 5 extent the rules would apply to a facility primarily serving~~
~~5 6 persons with mental illness, mental retardation or other~~
~~5 7 developmental disability, or brain injury.~~ The commission
5 8 shall coordinate the development of appropriate rules with
5 9 other state agencies.

5 10 4. The state, any resident advocate committee member, and
5 11 any resident advocate coordinator, ~~and any sponsoring area~~
~~5 12 agency on aging~~ are not liable for an action undertaken by a
5 13 resident advocate committee member or a resident advocate
5 14 committee coordinator in the performance of duty, if the
5 15 action is undertaken and carried out reasonably and in good
5 16 faith.

5 17 Sec. 13. Section 231.51, Code 2005, is amended to read as
5 18 follows:

5 19 231.51 OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT
5 20 PROGRAM, ~~TITLE V OF THE OLDER AMERICANS ACT.~~

5 21 1. The department shall direct and administer the older
5 22 American community service employment program as authorized by
5 23 the federal Act in coordination with the department of
5 24 workforce development and the department of economic
5 25 development.

5 26 2. The purpose of the program is to foster individual
5 27 economic self-sufficiency and to increase the number of
5 28 participants placed in unsubsidized employment in the public
5 29 and private sectors while maintaining the community service
5 30 focus of the program.

5 31 3. Funds appropriated to the department from the United
5 32 States department of labor shall be distributed to local
5 33 projects in accordance with federal requirements.

5 34 4. The department shall require such uniform reporting and
5 35 financial accounting by area agencies on aging and local
6 1 projects as may be necessary to fulfill the purposes of this
6 2 section.

6 3 Sec. 14. Section 231.56, Code 2005, is amended to read as
6 4 follows:

6 5 231.56 ~~ELDERLY~~ ELDER SERVICES PROGRAM.

6 6 The department shall establish an ~~elderly~~ elder services
6 7 program to reduce institutionalization and encourage community
6 8 involvement to help ~~the elderly~~ elders remain in their own
6 9 homes. Funds appropriated for this purpose shall be
6 10 instituted based on administrative rules adopted by the
6 11 commission. The department shall require such records as
6 12 needed to ~~implement~~ administer this section.

6 13 Sec. 15. Section 231.58, subsection 4, paragraphs b, d, f,
6 14 and i, Code 2005, are amended to read as follows:

6 15 b. Develop common intake and release procedures for the
6 16 purpose of determining eligibility at one point of intake and
6 17 determining eligibility for programs administered by the
6 18 departments of human services, public health, and elder
6 19 affairs, such as the medical assistance program, federal food
6 20 stamp program, and homemaker=home health aide programs, and
~~6 21 the case management program for frail elders administered by~~
~~6 22 the department of elder affairs.~~

6 23 d. Develop procedures for coordination at the local and
6 24 state level among the providers of long-term care, ~~including~~
~~6 25 when possible co-campusing of services.~~ ~~The director of the~~
~~6 26 department of administrative services shall give particular~~
~~6 27 attention to this section when arranging for office space~~
~~6 28 pursuant to section 8A.321 for these three departments.~~

6 29 f. Propose rules and procedures for the development of a
6 30 comprehensive long-term care ~~and community-based services~~
~~6 31 program system.~~

6 32 i. Consult with the state universities and other
6 33 institutions with expertise in the area of senior elder issues
6 34 and the long-term care continua.

6 35 EXPLANATION

7 1 This bill makes changes in the elder Iowans Act, Code
7 2 chapter 231, and makes conforming changes.

7 3 The bill defines "home and community-based services",
7 4 deletes the definition of "elderly", and replaces the
7 5 references to "elderly" with "elder". The bill authorizes the

7 6 commission of elder affairs to adopt rules for duties
7 7 specified in the elder Iowans Act as well as in other chapters
7 8 under the department of elder affairs' jurisdiction. The bill
7 9 deletes from the duties of the area agencies on aging, the
7 10 coordination of activities in support of the statewide long=
7 11 term care resident's advocate program as this duty was
7 12 centralized in the department of elder affairs, and makes a
7 13 conforming change by deleting the sponsoring area agency on
7 14 aging from the provision excluding such agency from liability
7 15 for an action undertaken by a resident advocate committee
7 16 member or a resident advocate committee coordinator. The bill
7 17 also changes the duties of area agencies on aging to allow a
7 18 change in the method used to document quarterly monitoring of
7 19 provider contracts. Additionally, instead of requiring area
7 20 agencies on aging to assure that elders have access to
7 21 referral services, the area agencies are to assure access to
7 22 assistance services. The bill updates references to the
7 23 federal Older Americans Act of 1965 and deletes the specific
7 24 requirement that the commission of elder affairs coordinate
7 25 the development of rules for various facilities with the
7 26 mental health and developmental disabilities commission to the
7 27 extent the rules apply to a facility primarily serving persons
7 28 with mental illness, mental retardation, or a developmental
7 29 disability.

7 30 The bill includes in the duties of the senior living
7 31 coordinating unit the development of common intake and release
7 32 procedures for the case management program for frail elders.
7 33 The bill deletes from the unit's duties when coordinating the
7 34 continua of services, the duty to co-campus services, and the
7 35 directive to the director of the department of administrative
8 1 services to review this area when arranging for office space.

8 2 LSB 1268DP 81

8 3 pf:rj/sh/8.2