

**Senate Study Bill 1184 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON RAGAN)

**A BILL FOR**

- 1 An Act relating to the long-term care ombudsman program.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.20A, subsection 2, Code 2011, is  
2 amended to read as follows:

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

9 Sec. 2. Section 135C.37, Code 2011, is amended to read as  
10 follows:

11 **135C.37 Complaints alleging violations — confidentiality.**

12 A person may request an inspection of a health care facility  
13 by filing with the department, resident advocate committee of  
14 the facility, or the state office of long-term care ~~resident's~~  
15 ~~advocate~~ ombudsman as established pursuant to section 231.42, a  
16 complaint of an alleged violation of applicable requirements  
17 of this chapter or the rules adopted pursuant to this chapter.  
18 A person alleging abuse or neglect of a resident with a  
19 developmental disability or with mental illness may also  
20 file a complaint with the protection and advocacy agency  
21 designated pursuant to section 135B.9 or section 135C.2. A  
22 copy of a complaint filed with the resident advocate committee  
23 or the state office of long-term care ~~resident's advocate~~  
24 ombudsman shall be forwarded to the department. The complaint  
25 shall state in a reasonably specific manner the basis of the  
26 complaint, and a statement of the nature of the complaint  
27 shall be delivered to the facility involved at the time of  
28 the inspection. The name of the person who files a complaint  
29 with the department, resident advocate committee, or the state  
30 office of long-term care ~~resident's advocate~~ ombudsman shall  
31 be kept confidential and shall not be subject to discovery,  
32 subpoena, or other means of legal compulsion for its release  
33 to a person other than department employees involved in the  
34 investigation of the complaint.

35 Sec. 3. Section 135C.38, subsection 2, paragraph d, Code

1 2011, is amended to read as follows:

2 *d.* A person who is dissatisfied with any aspect of the  
3 department's handling of the complaint may contact the state  
4 office of long-term care ~~resident's advocate~~ ombudsman,  
5 established pursuant to section 231.42, or may contact  
6 the protection and advocacy agency designated pursuant to  
7 section 135C.2 if the complaint relates to a resident with a  
8 developmental disability or a mental illness.

9 Sec. 4. Section 231.4, Code 2011, is amended by adding the  
10 following new subsections:

11 NEW SUBSECTION. 10A. "*Local long-term care ombudsman*" or  
12 "*local ombudsman*" means a local ombudsman or a representative of  
13 the office that is designated by the state ombudsman.

14 NEW SUBSECTION. 13A. "*State long-term care ombudsman*" or  
15 "*state ombudsman*" means the state long-term care ombudsman  
16 described in section 231.42.

17 NEW SUBSECTION. 13B. "*State office of long-term care*  
18 *ombudsman*" or "*office*" means the state office of long-term care  
19 ombudsman established in section 231.42.

20 Sec. 5. Section 231.23A, subsection 7, Code 2011, is amended  
21 to read as follows:

22 7. Administration relating to the state office of long-term  
23 care ~~resident's advocate~~ ombudsman and training for resident  
24 advocate committees.

25 Sec. 6. Section 231.41, Code 2011, is amended to read as  
26 follows:

27 **231.41 Purpose.**

28 The purpose of this subchapter is to establish the state  
29 office of long-term care ~~resident's advocate~~ ombudsman  
30 attached to the department as specified in this subchapter and  
31 in accordance with the requirements of the federal Act, and to  
32 adopt the supporting federal regulations and guidelines for its  
33 operation.

34 Sec. 7. Section 231.42, Code 2011, is amended to read as  
35 follows:

1     **231.42 Office State office of long-term care resident's**  
2 **advocate ombudsman — duties — penalties for violations.**

3     1. *Office State office established.* The state office of  
4 long-term care resident's advocate ombudsman is established  
5 within as a distinct unit attached to the department for the  
6 limited purposes as specified in section 7E.2, subsection 5,  
7 and in accordance with section 712 of the federal Act, as  
8 codified at 42 U.S.C. § 3058g. The office shall consist of the  
9 state long-term care resident's advocate and ombudsman, any  
10 representatives of the office, and any local long-term care  
11 resident's advocates ombudsmen.

12     2. *State long-term care resident's advocate ombudsman.* The  
13 director of the department, in consultation with the  
14 commission, shall appoint hire the state long-term care  
15 resident's advocate ombudsman who shall personally, or through  
16 representatives of the office, do all of the following:

17     *a.* ~~Establish and implement a statewide confidential~~  
18 ~~uniform reporting system for receiving, analyzing, referring,~~  
19 ~~investigating, and resolving complaints about administrative~~  
20 ~~actions and the health, safety, welfare, and rights of~~  
21 ~~residents or tenants of long-term care facilities, assisted~~  
22 ~~living programs, and elder group homes, excluding facilities~~  
23 ~~licensed primarily to serve persons with mental retardation or~~  
24 ~~mental illness.~~

25     *b.* ~~Publicize the office of long-term care resident's~~  
26 ~~advocate and provide information and education to consumers,~~  
27 ~~the public, and other agencies about issues related to~~  
28 ~~long-term care in Iowa.~~

29     *c.* ~~Monitor the development and implementation of federal,~~  
30 ~~state, and local laws, regulations, and policies that relate to~~  
31 ~~long-term care in Iowa.~~

32     *a.* Exercise the powers, duties, functions, and  
33 responsibilities established in the federal Act independent of  
34 any state agency and in accordance with the federal Act.

35     *b.* Provide information, data, and recommendations to the

1 director, the commission, the department of inspections and  
2 appeals, other appropriate public and private agencies, and  
3 other persons regarding issues pertaining to the residents of  
4 long-term care facilities, assisted living programs, and elder  
5 group homes.

6 c. Identify, investigate, and resolve complaints made by  
7 or on behalf of residents that relate to action, inaction,  
8 or decisions that may adversely affect the health, safety,  
9 welfare, or rights of the residents, including the welfare  
10 and rights of residents with respect to the appointment and  
11 activities of guardians and representative payees, of any of  
12 the following:

13 (1) Providers or representatives of providers of long-term  
14 care services.

15 (2) Public agencies.

16 (3) Health and social service agencies.

17 d. Provide services to assist residents in protecting the  
18 health, safety, welfare, and rights of the residents.

19 e. Inform residents about the means of obtaining services  
20 provided by providers or agencies.

21 f. Ensure that residents have regular and timely access to  
22 the services provided through the office and that the residents  
23 and complainants receive timely responses to complaints from  
24 representatives of the office.

25 g. Represent the interests of residents before governmental  
26 agencies and seek administrative, legal, and other remedies to  
27 protect the health, safety, welfare, and rights of residents.

28 h. Provide administrative and technical assistance to local  
29 long-term care ombudsmen to assist them in participating in the  
30 programs under this subchapter.

31 i. (1) Analyze, comment on, and monitor the development and  
32 implementation of federal, state, and local laws, regulations,  
33 and other governmental policies and actions, that pertain to  
34 the health, safety, welfare, and rights of residents, with  
35 respect to the adequacy of long-term care facilities, assisted

1 living programs, elder group homes, and long-term care services  
2 in the state.

3 (2) Recommend any changes in such laws, regulations,  
4 policies, and actions as the office determines to be  
5 appropriate.

6 (3) Facilitate public comment on the laws, regulations,  
7 policies, and actions.

8 j. (1) Promote the development of citizen organizations to  
9 participate in the programs under this subchapter.

10 (2) Provide technical support for the development of  
11 resident and family councils to protect the well-being and  
12 rights of residents.

13 (3) Carry out such other activities as determined to be  
14 appropriate by the commission pursuant to the federal Act.

15 ~~d.~~ k. Annually report to the governor and general assembly  
16 on the activities of the office ~~and make~~ and other information  
17 required by the federal Act including recommendations for  
18 improving the health, safety, welfare, and rights of residents  
19 ~~and tenants~~ of long-term care facilities, assisted living  
20 programs, and elder group homes.

21 ~~e.~~ Cooperate with persons and public or private agencies  
22 with regard to, and participate in, inquiries, meetings,  
23 or studies that may lead to improvements in the health,  
24 safety, welfare, and rights of residents and tenants and the  
25 functioning of long-term care facilities, assisted living  
26 programs, and elder group homes.

27 ~~f.~~ l. Recruit, train, educate, support, and monitor  
28 volunteers associated with the office.

29 m. Hire, train, supervise, evaluate, and monitor local  
30 ombudsmen and representatives of the office.

31 n. Establish and implement a statewide confidential uniform  
32 reporting system.

33 o. Ensure compliance with conflict of interest provisions  
34 of the federal Act.

35 p. Establish and chair an advisory committee that shall

1 consist of but is not limited to at least one representative  
2 of the commission, the department of inspections and appeals,  
3 the long-term care industry including nursing facilities and  
4 assisted living programs, the Iowa caregivers association,  
5 area agencies on aging, and other stakeholders, consumers,  
6 caregivers, and members of the public.

7 (1) Advisory committee members shall be appointed by  
8 the commission in consultation with the state long-term care  
9 ombudsman.

10 (2) The advisory committee shall do all of the following:

11 (a) Ensure the autonomy of the office as mandated by the  
12 federal Act.

13 (b) Review and provide comment on the procedures of the  
14 office regarding complaint investigations, noncomplaint-related  
15 visits, and in-service programs.

16 (c) Review and comment on the annual report prior to public  
17 dissemination.

18 (d) Assist in identifying trends in the long-term care  
19 industry.

20 (e) Assist in identifying opportunities for consumer  
21 awareness, provider in-service programs, and professional  
22 education.

23 (f) Provide support for office initiatives.

24 (g) Assist in the dissemination of information regarding  
25 the office.

26 (h) Participate in the performance review process and  
27 provide comments to the director prior to the annual review of  
28 the state long-term care ombudsman.

29 3. Department duties. The department shall do all of the  
30 following:

31 a. Provide fiscal, human resources, and media assistance to  
32 the office through a chapter 28E agreement. The department may  
33 provide other services to the office as mutually agreed upon  
34 in writing.

35 b. Include the office's budget and legislative requests with

1 the department's annual submission as originally submitted by  
2 the office, unless changes are mutually agreed upon in writing.

3 c. Ensure that adequate legal counsel is available to  
4 protect the health, safety, welfare, and rights of residents;  
5 to assist the office, state ombudsman, local ombudsmen, and  
6 representatives of the office in the performance of official  
7 duties; and for other purposes as prescribed by the federal  
8 Act.

9 4. Commission duties. The commission shall do all of the  
10 following:

11 a. Establish a process to work with the director to  
12 search for and interview candidates for the position of  
13 state long-term care ombudsman and make a recommendation for  
14 selection of a candidate to the director.

15 b. Ensure compliance with all rules and regulations that  
16 ensure autonomy of the office.

17 c. Ensure support of and assistance to the office by the  
18 director.

19 d. Receive and review reports of the activities of the  
20 office.

21 e. Participate in the long-term care ombudsman advisory  
22 committee.

23 f. Participate in the performance review process and provide  
24 comments to the director prior to the annual review of the  
25 state long-term care ombudsman.

26 ~~3. Local long-term care resident's advocates. The local~~  
27 ~~long-term care resident's advocates established pursuant to~~  
28 ~~this section shall do all of the following:~~

29 ~~a. Accept, investigate, verify, and work to resolve~~  
30 ~~complaints, whether reported to or initiated by a long-term~~  
31 ~~care resident's advocate, relating to any action or inaction~~  
32 ~~that may adversely affect the health, safety, welfare, or~~  
33 ~~rights of residents or tenants of a long-term care facility,~~  
34 ~~assisted living program, or elder group home.~~

35 ~~b. Provide information about long-term care, the rights of~~



~~1 residents and tenants, payment sources for care, and selection  
2 of a long-term care facility, assisted living program, or elder  
3 group home to providers, consumers, family members, volunteers,  
4 and the public.~~

~~5 c. Make referrals to appropriate licensing, certifying, and  
6 enforcement agencies to assure appropriate investigation of  
7 abuse complaints and corrective actions.~~

~~8 d. Assist in the recruitment, training, education, support,  
9 and monitoring of volunteers associated with the office of the  
10 long-term care resident's advocate.~~

~~11 e. Make noncomplaint-related visits to long-term care  
12 facilities, assisted living programs, and elder group homes  
13 to observe daily routines, meals, and activities, and work to  
14 resolve complaints if any are identified during these visits.~~

~~15 4. 5. Referrals of abuse, neglect, or exploitation.~~

~~16 a. If abuse, neglect, or exploitation of a resident or  
17 tenant of a long-term care facility, assisted living program,  
18 or elder group home is suspected, the state ombudsman or a  
19 local ~~long-term care resident's advocate~~ ombudsman shall, with  
20 the permission of the resident or tenant as applicable under  
21 federal law, make an immediate referral to the department of  
22 inspections and appeals or the department of human services  
23 as applicable, and to the appropriate law enforcement agency.  
24 The state ombudsman or a local ~~long-term care resident's~~  
25 ~~advocate~~ ombudsman shall ~~cooperate~~ participate, if requested,  
26 with the department of inspections and appeals, department of  
27 human services, or any law enforcement agency pursuant to any  
28 investigation of such abuse, neglect, or exploitation.~~

~~29 b. If the department of inspections and appeals responds  
30 to a complaint referred by the state ombudsman or a local  
31 ~~long-term care resident's advocate~~ ombudsman against a  
32 long-term care facility, assisted living program, elder  
33 group home, or an employee of such entity, copies of related  
34 inspection reports, plans of correction, and notice of any  
35 citations and sanctions levied against the facility, program,~~

1 or home shall be forwarded to the state office of ~~the~~ long-term  
2 care ~~resident's advocate~~ ombudsman.

3 ~~5.~~ 6. Access to facility, program, or home. The state  
4 ombudsman or a local ~~long-term care resident's advocate~~  
5 ombudsman or a trained volunteer may enter any long-term care  
6 facility, assisted living program, or elder group home at any  
7 time with or without prior notice or complaint and shall be  
8 granted access to residents ~~and tenants~~ at all times for the  
9 purpose of carrying out the duties specified in this section.  
10 As used in this section, "access" means the right to do all of  
11 the following:

12 *a.* Enter any long-term care facility, assisted living  
13 program, or elder group home and provide identification.

14 ~~*b.* Seek consent to communicate privately and without~~  
15 ~~restriction with any resident or tenant.~~

16 ~~*e.*~~ *b.* Communicate privately and without restriction  
17 with any resident, ~~tenant,~~ legal representative, or other  
18 representative who consents to communication.

19 ~~*d.*~~ *c.* Review the clinical or other records of a resident ~~or~~  
20 ~~tenant~~ when a complaint is filed with the office.

21 ~~*e.*~~ *d.* Observe all resident ~~or tenant~~ areas of a facility,  
22 program, or housing establishment except the living area of any  
23 resident ~~or tenant~~ who protests the observation.

24 ~~6.~~ 7. Access to medical and personal records, documents, and  
25 information.

26 *a.* The state ombudsman or a local ~~long-term care resident's~~  
27 ~~advocate~~ ombudsman shall have access to the medical and  
28 personal records of an individual who is a resident ~~or tenant~~  
29 of a long-term care facility, assisted living program, or elder  
30 group home retained by the facility, program, or home. in  
31 either of the following circumstances:

32 (1) If a complaint is filed with the office and one of the  
33 following conditions is met:

34 (a) The state ombudsman or local ombudsman has the  
35 permission of the resident or the resident's legal

1 representative.

2 (b) The resident is unable to consent but has no legal  
3 representative.

4 (2) As necessary to investigate a complaint if a resident's  
5 legal representative refuses to provide permission, the state  
6 ombudsman or local ombudsman has reasonable cause to believe  
7 the representative is not acting in the best interest of the  
8 resident, and, if the local ombudsman is investigating, the  
9 local ombudsman obtains approval from the state ombudsman.

10 b. Records and other documents accessed under this  
11 subsection may be reproduced by the state ombudsman or a local  
12 long-term care resident's advocate ombudsman.

13 c. The state ombudsman or local ombudsman shall have  
14 access to administrative records, policies, and documents of a  
15 facility, program, or home to which the residents have or the  
16 general public has access.

17 d. The state ombudsman or local ombudsman shall have access  
18 to and, upon request, may obtain copies of all licensing and  
19 certification records maintained by the state with respect to  
20 long-term care facilities, assisted living programs, or elder  
21 group homes.

22 ~~e.~~ e. Upon request of the state ombudsman or a local  
23 long-term care resident's advocate ombudsman, a long-term care  
24 facility, assisted living program, or elder group home shall  
25 provide the name, address, and telephone number of the legal  
26 representative or next of kin of any resident or tenant.

27 ~~d.~~ f. A long-term care facility, assisted living program,  
28 or elder group home or personnel of such a facility, program,  
29 or home who discloses records, documents, or information  
30 in compliance with this section and the procedures adopted  
31 pursuant to this section shall not be liable for such  
32 disclosure.

33 ~~7.~~ 8. Interference prohibited — penalties.

34 a. An officer, owner, director, or employee of a long-term  
35 care facility, assisted living program, or elder group home who

1 intentionally prevents, interferes with, or attempts to impede  
2 the work of the state ombudsman or a local ~~long-term care~~  
3 ~~resident's advocate~~ ombudsman is subject to a penalty imposed  
4 by the director, in consultation with the state ombudsman,  
5 of not more than one thousand five hundred dollars for each  
6 violation. If the director imposes a penalty for a violation  
7 under this paragraph, no other state agency shall impose a  
8 penalty for the same interference violation. Any moneys  
9 collected pursuant to this subsection shall be deposited in the  
10 general fund of the state.

11 *b.* The state office of ~~the long-term care~~ ~~resident's~~  
12 ~~advocate~~ ombudsman shall adopt rules specifying procedures  
13 for notice and appeal of penalties imposed pursuant to this  
14 subsection.

15 *c.* The director, in consultation with the ~~office of the~~  
16 state long-term care ~~resident's advocate~~ ombudsman, shall  
17 notify the county attorney of the county in which the long-term  
18 care facility, assisted living program, or elder group home  
19 is located, or the attorney general, of any violation of this  
20 subsection.

21 ~~8.~~ 9. *Retaliation prohibited — penalties.* An officer,  
22 owner, director, or employee of a long-term care facility,  
23 assisted living program, or elder group home shall not  
24 retaliate against any person for having filed a complaint with,  
25 or provided information to, the state ombudsman or a local  
26 ~~long-term care resident's advocate~~ ombudsman. A person who  
27 retaliates or discriminates in violation of this subsection is  
28 guilty of a simple misdemeanor.

29 ~~9.~~ 10. *Change in operations.* A long-term care facility,  
30 assisted living program, or elder group home shall inform  
31 the state office of ~~the long-term care~~ ~~resident's advocate~~  
32 ombudsman in writing at least thirty days prior to any change  
33 in operations, programs, services, licensure, or certification  
34 that affects residents ~~or tenants~~, including but not limited  
35 to the intention to close, decertify, or change ownership. In

1 an emergency situation, or when a long-term care facility,  
2 assisted living program, or elder group home is evacuated, the  
3 ~~department of inspections and appeals~~ facility, program, or  
4 home shall notify the state office of ~~the state~~ long-term care  
5 ~~resident's advocate~~ ombudsman.

6 ~~10.~~ 11. Immunity. The state ombudsman or a local ~~long-term~~  
7 ~~care resident's advocate~~ ombudsman or any representative of the  
8 office participating in the good faith performance of their  
9 official duties shall have immunity from any civil or criminal  
10 liability that otherwise might result by reason of taking,  
11 investigating, or pursuing a complaint under this section.

12 ~~11.~~ 12. Confidentiality and disclosure. Information  
13 relating to any complaint made to or investigation by the  
14 state ombudsman or a local ~~long-term care resident's advocate~~  
15 ombudsman that discloses the identity of a complainant, or  
16 resident, ~~or tenant,~~ or information related to a resident's ~~or~~  
17 ~~tenant's~~ personal or medical records, shall remain confidential  
18 ~~except as follows:~~

19 ~~a.~~ a. If unless permission is granted by the ~~director in~~  
20 ~~consultation with the state long-term care resident's advocate.~~  
21 ombudsman and one of the following applies:

22 ~~b.~~ a. If disclosure is authorized in writing by  
23 the complainant ~~and the~~ to disclose the identity of the  
24 complainant.

25 b. If disclosure is authorized by the resident, tenant, or  
26 the individual's resident's guardian or legal representative to  
27 disclose the identity of the resident or information relating  
28 to the resident's personal or medical records.

29 c. If disclosure is necessary for the provision of services  
30 to a resident ~~or tenant,~~ or the resident ~~or tenant~~ is unable to  
31 express written or oral consent.

32 d. If ordered by a court.

33 ~~12.~~ 13. Posting of state long-term care resident's  
34 advocate ombudsman information. Every long-term care facility,  
35 assisted living program, and elder group home shall post

1 information in a prominent location that includes the name,  
2 address, and telephone number, and a brief description of the  
3 services provided by the state office of ~~the~~ long-term care  
4 ~~resident's advocate~~ ombudsman. The information posted shall be  
5 approved or provided by the state office of ~~the~~ long-term care  
6 ~~resident's advocate~~ ombudsman.

7 Sec. 8. Section 231.44, subsections 1 and 4, Code 2011, are  
8 amended to read as follows:

9 1. The resident advocate committee volunteer program  
10 is administered by the state office of ~~the~~ long-term care  
11 ~~resident's advocate~~ ombudsman. ~~The state and any local~~  
12 ~~long-term care resident's advocate~~ office shall provide  
13 information, assistance, and support to resident advocate  
14 committee program volunteers to the extent possible. If  
15 funding becomes insufficient to process applications and new  
16 appointments to resident advocate committees can no longer be  
17 made, the director shall notify the director of the department  
18 of inspections and appeals. A health care facility shall not  
19 be found in violation of section 135C.25 for not having a  
20 resident advocate committee if new appointments cannot be made  
21 as documented in accordance with this subsection.

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

28 Sec. 9. Section 231.62, subsection 2, Code 2011, is amended  
29 to read as follows:

30 2. The department shall act within the funding available  
31 to the department to expand and improve training and  
32 education of persons who regularly deal with persons with  
33 Alzheimer's disease and similar forms of irreversible  
34 dementia. Such persons shall include but are not limited to  
35 law enforcement personnel, ~~long-term care resident's advocates~~

1 the state ombudsman or local ombudsmen, state employees with  
2 responsibilities for oversight or monitoring of agencies  
3 providing long-term care services, and workers and managers in  
4 services providing direct care to such persons, such as nursing  
5 facilities and other long-term care settings, assisted living  
6 programs, elder group homes, residential care facilities, adult  
7 day facilities, and home health care services. The actions  
8 shall include but are not limited to adopting rules.

9 Sec. 10. Section 231B.1, subsection 10, Code 2011, is  
10 amended to read as follows:

11 10. "*Tenant advocate*" means the state office of the  
12 long-term care ~~resident's advocate~~ ombudsman established in  
13 section 231.42.

14 Sec. 11. Section 231C.2, subsection 14, Code 2011, is  
15 amended to read as follows:

16 14. "*Tenant advocate*" means the state office of long-term  
17 care ~~resident's advocate~~ ombudsman established in section  
18 231.42.

19 Sec. 12. Section 235B.6, subsection 2, paragraph e,  
20 subparagraph (10), Code 2011, is amended to read as follows:

21 (10) The state long-term care ombudsman or a local ~~long-term~~  
22 ~~care resident's advocate~~ long-term care ombudsman if the victim  
23 resides in a long-term care facility or the alleged perpetrator  
24 is an employee of a long-term care facility.

25 EXPLANATION

26 This bill relates to the state office of long-term care  
27 ombudsman, the state long-term care ombudsman, local long-term  
28 care ombudsmen, and representatives of these entities.

29 The bill changes the term "resident's advocate" to ombudsman  
30 throughout the Code. The bill establishes the duties of the  
31 state long-term care ombudsman, the department on aging, and  
32 the commission on aging. Under the bill, the "state office"  
33 is established as a distinct unit attached to the department  
34 on aging as prescribed in Code section 7E.2, subsection  
35 5, which provides that the distinct unit is to operate

1 independently of the head of the department, but budgeting,  
2 program coordination, and related management functions are  
3 to be performed under the direction and supervision of the  
4 head of the department, unless otherwise provided by law. The  
5 bill provides for the establishment of an advisory committee  
6 whose members are to represent specified entities and are  
7 appointed by the commission on aging in consultation with  
8 the state long-term care ombudsman. The bill specifies  
9 the duties of the advisory committee including ensuring the  
10 autonomy of the office; reviewing and providing comment on the  
11 procedures of the office regarding complaint investigations,  
12 noncomplaint-related visits, and in-service programs;  
13 reviewing and commenting on the annual report submitted by the  
14 state ombudsman prior to public dissemination; assisting in  
15 identifying trends in the long-term care industry; assisting  
16 in identifying opportunities for consumer awareness, provider  
17 in-service programs, and professional education; providing  
18 support for office initiatives; assisting in the dissemination  
19 of information regarding the office; and participating in  
20 the performance review process and providing comments to the  
21 director prior to the annual review of the state long-term care  
22 ombudsman.

23 The bill specifies that the duties of the commission on  
24 aging include establishing a process to work with the director  
25 to search for and interview candidates for the position of  
26 state long-term care ombudsman and making a recommendation for  
27 selection of a candidate to the director; ensuring compliance  
28 with all rules and regulations that ensure autonomy of the  
29 office; ensuring support of and assistance to the office by the  
30 director; receiving and reviewing reports of the activities  
31 of the office; participating in the long-term care ombudsman  
32 advisory committee; and participating in the performance review  
33 process and providing comments to the director prior to the  
34 annual review of the state long-term care ombudsman.

35 The duties of the department specified under the bill



S.F. \_\_\_\_\_

1 include providing fiscal, human resources, and media assistance  
2 to the office through a Code chapter 28E agreement and  
3 providing other services to the office as mutually agreed upon  
4 in writing, including the office's budget and legislative  
5 requests with the department's annual submission as originally  
6 submitted by the office, unless changes are mutually agreed  
7 upon in writing, and ensuring that adequate legal counsel is  
8 available to protect the health, safety, welfare, and rights  
9 of residents and to assist the office, state ombudsman, local  
10 ombudsmen, and representatives of the office in the performance  
11 of official duties.