

Summary as passed by House

H.265: An act relating to the State Long-Term Care Ombudsman

Prepared by Jennifer Carbee, Legislative Counsel

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This bill updates the Long-Term Care Ombudsman statutes to conform to the federal Older Americans Act and related federal regulations.

Sec. 1 - Changes to chapter on State Long-Term Care Ombudsman, 33 V.S.A. ch. 75

33 V.S.A. § 7501 - Definitions

- Updates definitions in existing law
- Adds new definitions for resident, resident representative, and willful interference

33 V.S.A. § 7502 - Establishes Office of Long-Term Care Ombudsman

- Updates existing language with no substantive impact

33 V.S.A. § 7503 - Responsibilities of the Office

- Deletes references to the Ombudsman establishing policies through rules, because the Ombudsman does not have rulemaking authority

33 V.S.A. § 7504 - Authority of the Ombudsman and representatives of the Office

- Specifies that the Ombudsman is responsible for leading and managing the Office in coordination with Department of Disabilities, Aging, and Independent Living (DAIL)
- Directs the Ombudsman, personally or through representatives of the Office, to:
 - analyze, comment on, and monitor development and implementation of federal, State, and local laws, rules, and policies and actions affecting the health, safety, welfare, and rights of recipients of long-term care services in Vermont; recommend changes; and facilitate public comment
 - lead the Office's statewide systemic advocacy efforts
 - provide information to public and private agencies, Legislature, media, others regarding issues affecting recipients of long-term care and the Ombudsman's recommendations
- Directs the Ombudsman personally to:
 - establish or recommend policies, procedures, and standards for the Ombudsman program
 - require representatives of the Office to fulfill federally required duties
 - refuse, suspend, or remove designation of a representative of the Office if the Ombudsman finds their policies, procedures, or practices are in conflict with those of the Ombudsman program
 - establish training procedures for certification and continuing education for representatives of the Office
 - investigate allegations of misconduct by representatives of the Office
- Specifies that the Ombudsman's and representatives are not lobbyists

- Expands the categories of people who can give permission for the Ombudsman or a representative to enter the home of a person receiving long-term care to include any individual the person chooses to act on his or her behalf, an agent under power of attorney or advance directive, and others authorized by State or federal law

33 V.S.A. § 7505 - Cooperation of State agencies

- Adds a provision requiring State agencies to comply with federal requirements that State agencies train, supervise, and monitor the Ombudsman's Office and its activities

33 V.S.A. § 7506 - Disclosure of information

- Provides guidelines regarding whether and to what extent files, records, and other information maintained by the Ombudsman program may be disclosed
- Prohibits Ombudsman from disclosing identifying information about a person receiving long-term care, or any other complainant, unless the person or his or her representative, or the complainant, consents to disclosure or disclosure is required by a court order

33 V.S.A. § 7507 - Immunity

- Specifies that existing provisions exempting the Ombudsman's Office from civil liability for good faith performance of its duties also applies to good faith performance of its functions and responsibilities

33 V.S.A. § 7508 - Interference and retaliation

- Replaces prohibition on "intentionally hindering" a representative of the Office of the Long-Term Care Ombudsman with prohibition on "willful interference" with the Ombudsman or a representative of the Office for consistency with federal requirements

33 V.S.A. § 7509 - Conflict of interest

- Expands conflict of interest provisions to include organizational conflicts of interest that may impact the effectiveness and credibility of the Ombudsman's Office
- Directs Ombudsman to develop and implement policies and procedures to prevent individual conflicts of interest for the Ombudsman, representatives of the Office, and members of their immediate family
- Replaces a requirement for DAIL to adopt rules regarding conflicts of interest with a process for periodic review and identification of conflicts of interest within the Ombudsman program

33 V.S.A. § 7510 - Legal assistance

- Expands requirement that the contract for Ombudsman services ensure legal representation and advice to the Ombudsman's program to require the Ombudsman program to secure appropriate legal counsel without conflicts of interest to enable the Ombudsman program to protect recipients of long-term care and to assist the Office in performing their duties

- Specifies that if the Ombudsman or a representative of the Office is an attorney, their legal representation of the Office does not satisfy the requirement for appropriate legal counsel

Sec. 2. 33 V.S.A. § 6903

- Specifically excludes the Long-Term Care Ombudsman and representatives of the Office from the list of mandatory reporters of abuse, neglect, or exploitation of a vulnerable adult

Sec. 3 - Effective date

- The act takes effect on July 1, 2017