

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Act on the Aging is amended by  
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program. The purpose  
8 of the Long Term Care Ombudsman Program is to ensure that older  
9 persons and persons with disabilities receive quality  
10 services. This is accomplished by providing advocacy services  
11 for residents of long term care facilities and participants  
12 receiving home care and community-based care. Managed care is  
13 increasingly becoming the vehicle for delivering health and  
14 long-term services and supports to seniors and persons with  
15 disabilities, including dual eligible participants. The  
16 additional ombudsman authority will allow advocacy services to  
17 be provided to Illinois participants for the first time and  
18 will produce a cost savings for the State of Illinois by  
19 supporting the rebalancing efforts of the Patient Protection  
20 and Affordable Care Act.

21 (a) Long Term Care Ombudsman Program. The Department shall  
22 establish a Long Term Care Ombudsman Program, through the  
23 Office of State Long Term Care Ombudsman ("the Office"), in

1 accordance with the provisions of the Older Americans Act of  
2 1965, as now or hereafter amended. The Long Term Care  
3 Ombudsman Program is authorized, subject to sufficient  
4 appropriations, to advocate on behalf of older persons and  
5 persons with disabilities residing in their own homes or  
6 community-based settings, relating to matters which may  
7 adversely affect the health, safety, welfare, or rights of  
8 such individuals.

9 (b) Definitions. As used in this Section, unless the  
10 context requires otherwise:

11 (1) "Access" means the right to:

12 (i) Enter any long term care facility or assisted  
13 living or shared housing establishment or supportive  
14 living facility;

15 (ii) Communicate privately and without restriction  
16 with any resident, regardless of age, who consents to  
17 the communication;

18 (iii) Seek consent to communicate privately and  
19 without restriction with any participant or resident,  
20 regardless of age;

21 (iv) Inspect and copy the clinical and other  
22 records of a participant or resident, regardless of  
23 age, with the express written consent of the  
24 participant or resident, or if consent is given  
25 orally, visually, or through the use of auxiliary aids  
26 and services, such consent is documented

1           contemporaneously by a representative of the Office in  
2           accordance with such procedures;

3           (v) Observe all areas of the long term care  
4           facility or supportive living facilities, assisted  
5           living or shared housing establishment except the  
6           living area of any resident who protests the  
7           observation; and

8           (vi) Subject to permission of the participant or  
9           resident requesting services or his or her  
10          representative, enter a home or community-based  
11          setting.

12          (2) "Long Term Care Facility" means (i) any facility  
13          as defined by Section 1-113 of the Nursing Home Care Act,  
14          as now or hereafter amended; (ii) any skilled nursing  
15          facility or a nursing facility which meets the  
16          requirements of Section 1819(a), (b), (c), and (d) or  
17          Section 1919(a), (b), (c), and (d) of the Social Security  
18          Act, as now or hereafter amended (42 U.S.C. 1395i-3(a),  
19          (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and  
20          (d)); (iii) any facility as defined by Section 1-113 of  
21          the ID/DD Community Care Act, as now or hereafter amended;  
22          (iv) any facility as defined by Section 1-113 of MC/DD  
23          Act, as now or hereafter amended; and (v) any facility  
24          licensed under Section 4-105 or 4-201 of the Specialized  
25          Mental Health Rehabilitation Act of 2013, as now or  
26          hereafter amended.

1           (2.5) "Assisted living establishment" and "shared  
2 housing establishment" have the meanings given those terms  
3 in Section 10 of the Assisted Living and Shared Housing  
4 Act.

5           (2.7) "Supportive living facility" means a facility  
6 established under Section 5-5.01a of the Illinois Public  
7 Aid Code.

8           (2.8) "Community-based setting" means any place of  
9 abode other than an individual's private home.

10          (3) "State Long Term Care Ombudsman" means any person  
11 employed by the Department to fulfill the requirements of  
12 the Office of State Long Term Care Ombudsman as required  
13 under the Older Americans Act of 1965, as now or hereafter  
14 amended, and Departmental policy.

15          (3.1) "Ombudsman" means any designated representative  
16 of the State Long Term Care Ombudsman Program; provided  
17 that the representative, whether he is paid for or  
18 volunteers his ombudsman services, shall be qualified and  
19 designated by the Office to perform the duties of an  
20 ombudsman as specified by the Department in rules and in  
21 accordance with the provisions of the Older Americans Act  
22 of 1965, as now or hereafter amended.

23          (4) "Participant" means an older person aged 60 or  
24 over or an adult with a disability aged 18 through 59 who  
25 is eligible for services under any of the following:

26           (i) A medical assistance waiver administered by

1 the State.

2 (ii) A managed care organization providing care  
3 coordination and other services to seniors and persons  
4 with disabilities.

5 (5) "Resident" means an older person aged 60 or over  
6 or an adult with a disability aged 18 through 59 who  
7 resides in a long-term care facility.

8 (c) Ombudsman; rules. The Office of State Long Term Care  
9 Ombudsman shall be composed of at least one full-time  
10 ombudsman and shall include a system of designated regional  
11 long term care ombudsman programs. Each regional program shall  
12 be designated by the State Long Term Care Ombudsman as a  
13 subdivision of the Office and any representative of a regional  
14 program shall be treated as a representative of the Office.

15 The Department, in consultation with the Office, shall  
16 promulgate administrative rules in accordance with the  
17 provisions of the Older Americans Act of 1965, as now or  
18 hereafter amended, to establish the responsibilities of the  
19 Department and the Office of State Long Term Care Ombudsman  
20 and the designated regional Ombudsman programs. The  
21 administrative rules shall include the responsibility of the  
22 Office and designated regional programs to investigate and  
23 resolve complaints made by or on behalf of residents of long  
24 term care facilities, supportive living facilities, and  
25 assisted living and shared housing establishments, and  
26 participants residing in their own homes or community-based

1 settings, including the option to serve residents and  
2 participants under the age of 60, relating to actions,  
3 inaction, or decisions of providers, or their representatives,  
4 of such facilities and establishments, of public agencies, or  
5 of social services agencies, which may adversely affect the  
6 health, safety, welfare, or rights of such residents and  
7 participants. The Office and designated regional programs may  
8 represent all residents and participants, but are not required  
9 by this Act to represent persons under 60 years of age, except  
10 to the extent required by federal law. When necessary and  
11 appropriate, representatives of the Office shall refer  
12 complaints to the appropriate regulatory State agency. The  
13 Department, in consultation with the Office, shall cooperate  
14 with the Department of Human Services and other State agencies  
15 in providing information and training to designated regional  
16 long term care ombudsman programs about the appropriate  
17 assessment and treatment (including information about  
18 appropriate supportive services, treatment options, and  
19 assessment of rehabilitation potential) of the participants  
20 they serve.

21 The State Long Term Care Ombudsman and all other  
22 ombudsmen, as defined in paragraph (3.1) of subsection (b)  
23 must submit to background checks under the Health Care Worker  
24 Background Check Act and receive training, as prescribed by  
25 the Illinois Department on Aging, before visiting facilities,  
26 private homes, or community-based settings. The training must

1 include information specific to assisted living  
2 establishments, supportive living facilities, shared housing  
3 establishments, private homes, and community-based settings  
4 and to the rights of residents and participants guaranteed  
5 under the corresponding Acts and administrative rules.

6 (c-5) Consumer Choice Information Reports. The Office  
7 shall:

8 (1) In collaboration with the Attorney General, create  
9 a Consumer Choice Information Report form to be completed  
10 by all licensed long term care facilities to aid  
11 Illinoisans and their families in making informed choices  
12 about long term care. The Office shall create a Consumer  
13 Choice Information Report for each type of licensed long  
14 term care facility. The Office shall collaborate with the  
15 Attorney General and the Department of Human Services to  
16 create a Consumer Choice Information Report form for  
17 facilities licensed under the ID/DD Community Care Act or  
18 the MC/DD Act.

19 (2) Develop a database of Consumer Choice Information  
20 Reports completed by licensed long term care facilities  
21 that includes information in the following consumer  
22 categories:

23 (A) Medical Care, Services, and Treatment.

24 (B) Special Services and Amenities.

25 (C) Staffing.

26 (D) Facility Statistics and Resident Demographics.

1 (E) Ownership and Administration.

2 (F) Safety and Security.

3 (G) Meals and Nutrition.

4 (H) Rooms, Furnishings, and Equipment.

5 (I) Family, Volunteer, and Visitation Provisions.

6 (3) Make this information accessible to the public,  
7 including on the Internet by means of a hyperlink on the  
8 Office's World Wide Web home page. Information about  
9 facilities licensed under the ID/DD Community Care Act or  
10 the MC/DD Act shall be made accessible to the public by the  
11 Department of Human Services, including on the Internet by  
12 means of a hyperlink on the Department of Human Services'  
13 "For Customers" website.

14 (4) Have the authority, with the Attorney General, to  
15 verify that information provided by a facility is  
16 accurate.

17 (5) Request a new report from any licensed facility  
18 whenever it deems necessary.

19 (6) Include in the Office's Consumer Choice  
20 Information Report for each type of licensed long term  
21 care facility additional information on each licensed long  
22 term care facility in the State of Illinois, including  
23 information regarding each facility's compliance with the  
24 relevant State and federal statutes, rules, and standards;  
25 customer satisfaction surveys; and information generated  
26 from quality measures developed by the Centers for



1 Medicare and Medicaid Services.

2 (d) Access and visitation rights.

3 (1) In accordance with subparagraphs (A) and (E) of  
4 paragraph (3) of subsection (c) of Section 1819 and  
5 subparagraphs (A) and (E) of paragraph (3) of subsection  
6 (c) of Section 1919 of the Social Security Act, as now or  
7 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and  
8 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the  
9 Older Americans Act of 1965, as now or hereafter amended  
10 (42 U.S.C. 3058f), a long term care facility, supportive  
11 living facility, assisted living establishment, and shared  
12 housing establishment must:

13 (i) permit immediate access to any resident,  
14 regardless of age, by a designated ombudsman;

15 (ii) permit representatives of the Office, with  
16 the permission of the resident, the resident's legal  
17 representative, or the resident's legal guardian, to  
18 examine and copy a resident's clinical and other  
19 records, including facility reports of incidents or  
20 occurrences made to State agencies, regardless of the  
21 age of the resident, and if a resident is unable to  
22 consent to such review, and has no legal guardian,  
23 permit representatives of the Office appropriate  
24 access, as defined by the Department, in consultation  
25 with the Office, in administrative rules, to the  
26 resident's records; and

1 (iii) permit a representative of the Program to  
2 communicate privately and without restriction with any  
3 participant who consents to the communication  
4 regardless of the consent of, or withholding of  
5 consent by, a legal guardian or an agent named in a  
6 power of attorney executed by the participant.

7 (2) Each long term care facility, supportive living  
8 facility, assisted living establishment, and shared  
9 housing establishment shall display, in multiple,  
10 conspicuous public places within the facility accessible  
11 to both visitors and residents and in an easily readable  
12 format, the address and phone number of the Office of the  
13 Long Term Care Ombudsman, in a manner prescribed by the  
14 Office.

15 (e) Immunity. An ombudsman or any representative of the  
16 Office participating in the good faith performance of his or  
17 her official duties shall have immunity from any liability  
18 (civil, criminal or otherwise) in any proceedings (civil,  
19 criminal or otherwise) brought as a consequence of the  
20 performance of his official duties.

21 (f) Business offenses.

22 (1) No person shall:

23 (i) Intentionally prevent, interfere with, or  
24 attempt to impede in any way any representative of the  
25 Office in the performance of his official duties under  
26 this Act and the Older Americans Act of 1965; or

1           (ii) Intentionally retaliate, discriminate  
2           against, or effect reprisals against any long term  
3           care facility resident or employee for contacting or  
4           providing information to any representative of the  
5           Office.

6           (2) A violation of this Section is a business offense,  
7           punishable by a fine not to exceed \$501.

8           (3) The State Long Term Care Ombudsman shall notify  
9           the State's Attorney of the county in which the long term  
10          care facility, supportive living facility, or assisted  
11          living or shared housing establishment is located, or the  
12          Attorney General, of any violations of this Section.

13          (g) Confidentiality of records and identities. The  
14          Department shall establish procedures for the disclosure by  
15          the State Ombudsman or the regional ombudsmen entities of  
16          files maintained by the program. The procedures shall provide  
17          that the files and records may be disclosed only at the  
18          discretion of the State Long Term Care Ombudsman or the person  
19          designated by the State Ombudsman to disclose the files and  
20          records, and the procedures shall prohibit the disclosure of  
21          the identity of any complainant, resident, participant,  
22          witness, or employee of a long term care provider unless:

23               (1) the complainant, resident, participant, witness,  
24               or employee of a long term care provider or his or her  
25               legal representative consents to the disclosure and the  
26               consent is in writing;

1           (2) the complainant, resident, participant, witness,  
2           or employee of a long term care provider gives consent  
3           orally; and the consent is documented contemporaneously in  
4           writing in accordance with such requirements as the  
5           Department shall establish; or

6           (3) the disclosure is required by court order.

7           (h) Legal representation. The Attorney General shall  
8           provide legal representation to any representative of the  
9           Office against whom suit or other legal action is brought in  
10          connection with the performance of the representative's  
11          official duties, in accordance with the State Employee  
12          Indemnification Act.

13          (i) Treatment by prayer and spiritual means. Nothing in  
14          this Act shall be construed to authorize or require the  
15          medical supervision, regulation or control of remedial care or  
16          treatment of any resident in a long term care facility  
17          operated exclusively by and for members or adherents of any  
18          church or religious denomination the tenets and practices of  
19          which include reliance solely upon spiritual means through  
20          prayer for healing.

21          (j) The Long Term Care Ombudsman Fund is created as a  
22          special fund in the State treasury to receive moneys for the  
23          express purposes of this Section. All interest earned on  
24          moneys in the fund shall be credited to the fund. Moneys  
25          contained in the fund shall be used to support the purposes of  
26          this Section.

1           (k) Each Regional Ombudsman may, in accordance with rules  
2 promulgated by the Office, establish a multi-disciplinary team  
3 to act in an advisory role for the purpose of providing  
4 professional knowledge and expertise in handling complex  
5 abuse, neglect, and advocacy issues involving participants.  
6 Each multi-disciplinary team may consist of one or more  
7 volunteer representatives from any combination of at least 7  
8 members from the following professions: banking or finance;  
9 disability care; health care; pharmacology; law; law  
10 enforcement; emergency responder; mental health care; clergy;  
11 coroner or medical examiner; substance abuse; domestic  
12 violence; sexual assault; or other related fields. To support  
13 multi-disciplinary teams in this role, law enforcement  
14 agencies and coroners or medical examiners shall supply  
15 records as may be requested in particular cases. The Regional  
16 Ombudsman, or his or her designee, of the area in which the  
17 multi-disciplinary team is created shall be the facilitator of  
18 the multi-disciplinary team.

19           (Source: P.A. 102-1033, eff. 1-1-23; 103-329, eff. 1-1-24.)