
HOUSE BILL 1752

State of Washington

55th Legislature

1997 Regular Session

By Representatives Cooke, Dyer, Tokuda, McDonald, Sheahan, Cairnes, Cody, Ballasiotes, Bush, Boldt, Wolfe, Mitchell, Doumit, Ogden, Thompson, Blalock, Poulsen, L. Thomas, O'Brien, Costa, Backlund, Veloria, Kenney and Carlson

Read first time 02/07/97. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the long-term care ombudsman program; and
2 amending RCW 43.190.010, 43.190.020, 43.190.030, and 43.190.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.190.010 and 1983 c 290 s 1 are each amended to read
5 as follows:

6 The legislature finds that in order to comply with the federal
7 Older Americans Act, provide protection to persons with developmental
8 disabilities, and to effectively assist residents, patients, and
9 clients of long-term care facilities in the assertion of their civil
10 and human rights, a long-term care ombudsman program should be
11 instituted.

12 **Sec. 2.** RCW 43.190.020 and 1995 1st sp.s. c 18 s 32 are each
13 amended to read as follows:

14 As used in this chapter, "long-term care facility" means any of the
15 following:

16 (1) A facility which:

17 (a) Maintains and operates twenty-four hour skilled nursing
18 services for the care and treatment of chronically ill or convalescent

1 patients, including mental, emotional, or behavioral problems, (~~mental~~
2 ~~retardation~~) developmental disability, or alcoholism;

3 (b) Provides supportive, restorative, and preventive health
4 services in conjunction with a socially oriented program to its
5 residents, and which maintains and operates twenty-four hour services
6 including board, room, personal care, and intermittent nursing care.
7 "Long-term health care facility" includes nursing homes and nursing
8 facilities, but does not include acute care hospital or other licensed
9 facilities except for that distinct part of the hospital or facility
10 which provides nursing facility services.

11 (2) Any family home, group care facility, or similar facility
12 determined by the secretary, for twenty-four hour nonmedical care of
13 persons in need of personal services, supervision, or assistance
14 essential for sustaining the activities of daily living or for the
15 protection of the individual.

16 (3) Any swing bed in an acute care facility.

17 **Sec. 3.** RCW 43.190.030 and 1995 c 399 s 105 are each amended to
18 read as follows:

19 There is created the office of the state long-term care ombudsman.
20 The department of community, trade, and economic development shall
21 contract with a private nonprofit organization to provide long-term
22 care ombudsman services as specified under, and consistent with, the
23 federal older Americans act as amended, federal mandates, developmental
24 disabilities provisions in Title 71A RCW, the goals of the state, and
25 the needs of its citizens. The department of community, trade, and
26 economic development shall ensure that all program and staff support
27 necessary to enable the ombudsman to effectively protect the interests
28 of residents, patients, and clients of all long-term care facilities is
29 provided by the nonprofit organization that contracts to provide long-
30 term care ombudsman services. The long-term care ombudsman program
31 shall have the following powers and duties:

32 (1) To provide services for coordinating the activities of long-
33 term care ombudsmen throughout the state;

34 (2) Carry out such other activities as the department of community,
35 trade, and economic development deems appropriate;

36 (3) Establish procedures consistent with RCW 43.190.110 for
37 appropriate access by long-term care ombudsmen to long-term care
38 facilities and patients' records, including procedures to protect the

1 confidentiality of the records and ensure that the identity of any
2 complainant or resident will not be disclosed without the written
3 consent of the complainant or resident, or upon court order;

4 (4) Establish a state-wide uniform reporting system to collect and
5 analyze data relating to complaints and conditions in long-term care
6 facilities for the purpose of identifying and resolving significant
7 problems, with provision for submission of such data to the department
8 of social and health services and to the federal department of health
9 and human services, or its successor agency, on a regular basis; and

10 (5) Establish procedures to assure that any files maintained by
11 ombudsman programs shall be disclosed only at the discretion of the
12 ombudsman having authority over the disposition of such files, except
13 that the identity of any complainant or resident of a long-term care
14 facility shall not be disclosed by such ombudsman unless:

15 (a) Such complainant or resident, or the complainant's or
16 resident's legal representative, consents in writing to such
17 disclosure; or

18 (b) Such disclosure is required by court order.

19 **Sec. 4.** RCW 43.190.040 and 1983 c 290 s 4 are each amended to read
20 as follows:

21 (1) Any long-term care ombudsman authorized by this chapter or a
22 local governmental authority shall have training or experience or both
23 in the following areas:

24 (a) Gerontology, long-term care, or other related social services
25 programs(~~(-)~~);

26 (b) Developmental disabilities;

27 (c) The legal system(~~(-)~~); and

28 ~~((e))~~ (d) Dispute or problem resolution techniques, including
29 investigation, mediation, and negotiation.

30 (2) A long-term care ombudsman shall not have been employed by any
31 long-term care facility within the past three years.

32 (3) No long-term care ombudsman or any member of his or her
33 immediate family shall have, or have had within the past three years,
34 any pecuniary interest in the provision of long-term health care
35 facilities.

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