

STATE OF NEW YORK

5746--A

2025-2026 Regular Sessions

IN SENATE

February 28, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to creating the district long-term care ombudsperson council program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph (e) of subdivision 1 of section
2 218 of the elder law, as added by chapter 259 of the laws of 2018, is
3 amended, and a new paragraph (i) is added to read as follows:

4 (1) is an employee or volunteer of the state office for the aging or
5 of a designated local [~~ombudsman~~] ombudsperson entity, or a member of a
6 district long-term care ombudsperson council program and represents the
7 state long-term care [~~ombudsman~~] ombudsperson program;

8 (i) "District council" or "district council program" shall mean the
9 district long-term care ombudsperson council program established in
10 subdivision four of this section.

11 § 2. The opening paragraph and subparagraph 7 of paragraph (d) of
12 subdivision 3 of section 218 of the elder law, the opening paragraph as
13 amended by chapter 259 of the laws of 2018 and subparagraph 7 as amended
14 by chapter 770 of the laws of 2023, are amended to read as follows:

15 The state [~~ombudsman~~] ombudsperson, personally or through [~~authorized~~
16 ~~representatives~~] the district long-term care ombudsperson council
17 program established in subdivision four of this section, shall:

18 (7) develop a certification training program and continuing education
19 for [~~ombudsmen~~] ombudsperson which at a minimum shall specify the mini-
20 mum hours of training, the annual number of hours of in-service train-
21 ing, and the content of the training, including, but not limited to,
22 training relating to cultural competency and diversity, federal, state,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 and local laws, regulations, and policies with respect to long-term care
2 facilities in the state, investigative and resolution techniques, and
3 such other training-related matters as the state [~~ombudsman~~] ombudsper-
4 son determines to be appropriate, for the purposes of training members
5 of the district long-term care ombudsperson council program described in
6 subdivision four of this section, such training shall also include an
7 overview of such program;

8 § 3. Subdivision 4 of section 218 of the elder law, as amended by
9 chapter 259 of the laws of 2018, is amended to read as follows:

10 4. Local long-term care [~~ombudsman~~] ombudsperson program and district
11 long-term ombudsperson council program. (a) The state [~~ombudsman~~]
12 ombudsperson, in accordance with applicable state contracting proce-
13 dures, [~~may~~] shall designate an entity to operate a local long-term care
14 [~~ombudsman~~] ombudsperson program for [~~one or more counties~~] each assem-
15 bly district, and shall monitor the performance of each such entity. If
16 the state office for the aging is aware or becomes aware of any evidence
17 that the designation of an entity to operate a long-term care [~~ombuds-~~
18 ~~man~~] ombudsperson program by the state long-term care [~~ombudsman~~] ombud-
19 sperson would result in legal concerns or liability for the state office
20 for the aging or office of the state long-term care [~~ombudsman~~] ombud-
21 sperson, the state [~~ombudsman~~] ombudsperson will comply with the state
22 office for the aging's determination that such designation should not be
23 made.

24 (b) The designated entity shall be an area agency on aging, a public
25 agency or a private not-for-profit corporation which is free from any
26 conflict of interest that cannot be remedied. Any actual and potential
27 conflicts of interest shall be identified and addressed in accordance
28 with subdivision ten of this section.

29 (b-1) The state ombudsperson shall create, in each assembly district,
30 a district long-term care ombudsperson council program to coordinate the
31 volunteers of each local long-term care ombudsperson program within
32 their district. Each district council shall consist of the following
33 members:

34 (i) a trained district coordinator, appointed by the state ombudsper-
35 son, to serve as chair, who shall be paid an annual salary of forty-five
36 thousand dollars;

37 (ii) a trained district coordinator to serve as co-chair, appointed by
38 the state ombudsperson, who shall be paid an annual salary of twenty
39 thousand dollars;

40 (iii) a trained district coordinator, appointed by the state ombud-
41 sperson, to serve as secretary, who shall be paid an annual salary of
42 twenty thousand dollars; and

43 (iv) eight or more residents of such district, approved by the chair,
44 co-chair, and secretary of the district council, to serve as trained
45 district advocates, each of whom shall be paid an annual stipend of one
46 hundred fifty dollars.

47 (b-2) The positions of long-term care ombudsperson program volunteer
48 and district long-term care ombudsperson council program advocate shall
49 be listed with the human resources departments of the department of
50 health, state office for the aging, and any other relevant agency. Such
51 listing shall be included on each such agency's website and marketing
52 materials, and such listing shall be displayed on the department of
53 labor website and in state run care facilities.

54 (b-3) Information about the role and responsibility of the district
55 council program and the contact information of the members of such
56 district council program providing services to a long-term care facility

1 shall be included in the welcome packet of all new residents to such
2 facility alongside the patient bill of rights.

3 (c)(1) Each local long-term care [~~ombudsman~~] ombudsperson program
4 shall be directed by a qualified individual who is employed and paid by
5 the local entity and who shall have the duties and responsibilities as
6 provided in regulations, consistent with the provisions of this section
7 and of Title VII of the federal older Americans act of 1965, as amended.
8 Such director shall work with the district council to carry out the
9 requirements of this section. In addition, upon designation, the entity
10 is responsible for providing for adequate and qualified staff, which may
11 include trained volunteers to perform the functions of the local long-
12 term care [~~ombudsman~~] ombudsperson program.

13 (2) No local program staff or district council staff, including the
14 supervisor and any volunteers, shall perform or carry out the activities
15 on behalf of the state long-term care [~~ombudsman~~] ombudsperson program
16 or the district ombudsperson long-term council program unless such staff
17 has been verified as completing the training program developed by the
18 state [~~ombudsman~~] ombudsperson and has been approved by the state
19 [~~ombudsman~~] ombudsperson as qualified to carry out the activities on
20 behalf of the local program or district council program.

21 (3) For purposes of the district council such trainings shall be given
22 annually for all new recruits to such program and shall be available in
23 both in-person and online formats. Each council member shall also be
24 required to complete two or more professional development trainings
25 annually. Such professional development trainings shall be developed by
26 the state ombudsperson.

27 (d) When the state [~~ombudsman~~] ombudsperson determines that a local
28 long-term care [~~ombudsman~~] ombudsperson program does not meet the stand-
29 ards set forth in this section and in any related regulations, the state
30 [~~ombudsman~~] ombudsperson, in coordination with the state office for the
31 aging, may refuse, suspend, or remove the designation of the local
32 [~~ombudsmen~~] ombudsperson entity. Prior to taking such action, the state
33 [~~ombudsman~~] ombudsperson shall send to the affected local program a
34 notice of the state [~~ombudsman's~~] ombudsperson's intentions to refuse,
35 suspend, or remove the designation; provided, however, if the state
36 office for the aging is aware or becomes aware of evidence that the
37 designation or continued designation of an entity to operate a long-term
38 care [~~ombudsman~~] ombudsperson program would result in legal concerns or
39 liability for the state office for the aging or the office of the state
40 long-term care [~~ombudsman~~] ombudsperson, the state [~~ombudsman~~] ombud-
41 sperson will comply with the state office for the aging's determination
42 that such designation should not be made or that such designation be
43 refused, suspended, or removed.

44 (e) The state [~~ombudsman~~] ombudsperson shall develop a grievance proc-
45 ess to offer an opportunity for reconsideration of any decision to
46 refuse, suspend, or remove the designation of a local [~~ombudsman~~] ombud-
47 sperson entity. Notwithstanding the grievance process, the state
48 [~~ombudsman~~] ombudsperson shall make the final determination to designate
49 or to refuse, suspend, or remove the designation of a local [~~ombudsman~~]
50 ombudsperson entity; provided, however, if the state office for the
51 aging is aware or becomes aware of any evidence that the designation of
52 an entity to operate a long-term care [~~ombudsman~~] ombudsperson program
53 by the state long-term care [~~ombudsman~~] ombudsperson or that the failure
54 of the state [~~ombudsman~~] ombudsperson to refuse, suspend, or remove the
55 designation of a local [~~ombudsman~~] ombudsperson entity would result in
56 legal concerns or liability for the state office for the aging or the

1 office of the state long-term care [~~ombudsman~~ ombudsperson, the state
2 [~~ombudsman~~ ombudsperson will comply with the state office for the
3 aging's determination that such designation should not be made or that
4 such designation be refused, suspended, or removed.

5 (f) Each district shall receive the sum of eighty-six thousand two
6 hundred dollars annually for the purposes of administering the district
7 long-term care ombudsperson council program.

8 § 4. Subdivision 14 of section 218 of the elder law, as amended by
9 chapter 776 of the laws of 2022, is amended to read as follows:

10 14. Annual report. (a) On or before March thirty-first, two thousand
11 five, and annually thereafter, the state [~~ombudsman~~ ombudsperson shall
12 submit to the governor, commissioner of the federal administration on
13 aging, speaker of the assembly, temporary president of the senate,
14 director of the state office for the aging, commissioner of the depart-
15 ment of health, and the commissioner of children and family services a
16 report and make such report available to the public:

17 [~~(a)~~] (i) describing the activities carried out by the office of the
18 state long-term care [~~ombudsman~~ ombudsperson during the prior calendar
19 year;

20 [~~(b)~~] (ii) containing and analyzing data relating to complaints and
21 conditions in long-term care facilities and to residents for the purpose
22 of identifying and resolving significant problems, including an examina-
23 tion of any recurring complaints to determine if there are systemic
24 issues in such facilities;

25 [~~(c)~~] (iii) evaluating the problems experienced by, and the complaints
26 made by or on behalf of, residents;

27 [~~(d)~~] (iv) containing recommendations for appropriate state legis-
28 lation, rules and regulations and other action based on data collected
29 pursuant to this section, concerns raised by residents and families of
30 residents, and observations made when visiting long-term care facili-
31 ties, to improve the quality of the care and life of the residents,
32 protecting the health, safety and welfare and rights of the residents
33 and resolving resident complaints and identified problems or barriers;

34 [~~(e)~~] (v) containing an analysis of the success of the long-term care
35 [~~ombudsman~~ ombudsperson program, including success in providing
36 services to residents;

37 [~~(f)~~] (vi) describing barriers that prevent the optimal operation of
38 the [~~ombudsman~~ ombudsperson program;

39 [~~(g)~~] (vii) describing any organizational conflicts of interest in the
40 ombudsman program that have been identified and the steps taken to
41 remove or remedy such conflicts;

42 [~~(h)~~] (viii) containing all complaints received by the state [~~ombuds-~~
43 ~~man~~] ombudsperson relating to long-term care facilities including but
44 not limited to complaints that suggest the possible occurrence of phys-
45 ical abuse, mistreatment, neglect or Medicaid fraud, listed by type of
46 complaint, facility name and by region;

47 [~~(i)~~] (ix) containing the number of visits to each long-term care
48 facility, listed by facility name and by region, and names of long-term
49 care facilities that did not receive any visits in the prior year; and

50 [~~(j)~~] (x) any other matters as the state [~~ombudsman~~ ombudsperson, in
51 consultation with the director of the state office for the aging, deter-
52 mines to be appropriate.

53 (b) On or before March thirty-first, two thousand twenty-seven, and
54 annually thereafter, each district long-term care ombudsperson council
55 program shall submit to the attorney general a report and make such
56 report available to the public:

1 (i) describing the activities carried out by the district council
2 program during the prior calendar year;

3 (ii) containing and analyzing data relating to complaints and condi-
4 tions in long-term care facilities and to residents for the purpose of
5 identifying and resolving significant problems;

6 (iii) evaluating the problems experienced by, and the complaints made
7 by or on behalf of, residents;

8 (iv) containing recommendations for appropriate state legislation,
9 rules and regulations and other action to improve the quality of the
10 care and life of the residents, protecting the health, safety and
11 welfare and rights of the residents and resolving resident complaints
12 and identified problems or barriers;

13 (v) containing an analysis of the success of the district council
14 program, including success in providing services to residents;

15 (vi) describing barriers that prevent the optimal operation of the
16 district council program;

17 (vii) describing any organizational conflicts of interest in the
18 district council program that have been identified and the steps taken
19 to remove or remedy such conflicts;

20 (viii) any other matters as the district council determines to be
21 appropriate; and

22 (ix) in the cases of new nursing homes that are opening in a partic-
23 ular district under a different name or with ownership from a previous
24 facility that was closed or cited for issues by the department of
25 health, provide recommendations for the nursing home to be approved for
26 opening.

27 § 5. This act shall take effect on the one hundred eightieth day after
28 it shall have become a law. Effective immediately, the addition, amend-
29 ment and/or repeal of any rule or regulation necessary for the implemen-
30 tation of this act on its effective date are authorized to be made and
31 completed on or before such effective date.