

FIRST REGULAR SESSION

# HOUSE BILL NO. 663

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1<sup>st</sup> time March 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1761L.02I

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### AN ACT

To repeal sections 660.600 and 660.603, RSMo, and to enact in lieu thereof two new sections relating to the long-term care ombudsman program.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 660.600 and 660.603, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 660.600 and 660.603, to read as follows:

660.600. As used in sections 660.600 to 660.608, the following terms mean:

2 (1) "Division", the division of [aging] **senior services** of the department of [social]  
3 **health and senior** services;

4 (2) "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and  
5 long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;

6 (3) "Office", the office of the state ombudsman for long-term care facility residents;

7 (4) "Ombudsman", the state ombudsman for long-term care facility residents;

8 (5) "Regional ombudsman coordinators", designated individuals working for, or under  
9 contract with, the area agencies on aging, and who are so designated by the area agency on aging  
10 and certified by the ombudsman as meeting the qualifications established by the division;

11 (6) "Resident", any person who is receiving care or treatment in a long-term care facility.

660.603. 1. There is hereby established within the department of health and senior  
2 services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the  
3 purpose of helping to assure the adequacy of care received by residents of long-term care  
4 facilities and to improve the quality of life experienced by them, in accordance with the federal  
5 Older Americans Act, 42 U.S.C. 3001, et seq.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6           2. The office shall be administered by the state ombudsman, who shall devote his or her  
7 entire time to the duties of his or her position.

8           3. The office shall establish and implement procedures for receiving, processing,  
9 responding to, and resolving complaints made by or on behalf of residents of long-term care  
10 facilities relating to action, inaction, or decisions of providers, or their representatives, of  
11 long-term care services, of public agencies or of social service agencies, which may adversely  
12 affect the health, safety, welfare or rights of such residents.

13           4. The department shall establish and implement procedures for resolution of complaints.  
14 The ombudsman or representatives of the office shall have the authority to:

15           (1) Enter any long-term care facility and have access to residents of the facility at a  
16 reasonable time and in a reasonable manner. The ombudsman shall have access to review  
17 resident records, if given permission by the resident or the resident's legal guardian. Residents  
18 of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

19           (2) Make the necessary inquiries and review such information and records as the  
20 ombudsman or representative of the office deems necessary to accomplish the objective of  
21 verifying these complaints.

22           5. The office shall acknowledge complaints, report its findings, make recommendations,  
23 gather and disseminate information and other material, and publicize its existence.

24           6. The ombudsman may recommend to the relevant governmental agency changes in the  
25 rules and regulations adopted or proposed by such governmental agency which do or may  
26 adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility.  
27 The office shall analyze and monitor the development and implementation of federal, state and  
28 local laws, regulations and policies with respect to long-term care facilities and services in the  
29 state and shall recommend to the department changes in such laws, regulations and policies  
30 deemed by the office to be appropriate.

31           7. The office shall promote community contact and involvement with residents of  
32 facilities through the use of volunteers and volunteer programs directed by the regional  
33 ombudsman coordinators.

34           8. The office shall develop and establish by regulation of the department statewide  
35 policies and standards for implementing the activities of the ombudsman program, including the  
36 qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

37           9. The office shall develop and propose programs for use, training and coordination of  
38 volunteers in conjunction with the regional ombudsman coordinators and may:

39           (1) Establish and conduct recruitment programs for volunteers;

40           (2) Establish and conduct training seminars, meetings and other programs for volunteers;

41 and

42 (3) Supply personnel, written materials and such other reasonable assistance, including  
43 publicizing their activities, as may be deemed necessary.

44 10. The regional ombudsman coordinators and ombudsman volunteers shall have the  
45 authority to report instances of abuse and neglect to the ombudsman hotline operated by the  
46 department. **Ombudsman volunteers may only be relieved of their duties by the regional**  
47 **ombudsman, in consultation with the state ombudsman, for just cause after such**  
48 **ombudsman volunteer has received adequate due process protections. No long-term care**  
49 **facility shall have the authority to relieve an ombudsman volunteer from his or her duties.**

50 11. **Every long-term care facility licensed in this state shall be required to accept**  
51 **an ombudsman volunteer if an ombudsman volunteer is available.** If the regional  
52 ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to  
53 work with the ombudsman program to resolve complaints, the state ombudsman **and the**  
54 **department of health and senior services** shall be notified. The department shall establish  
55 procedures by rule in accordance with chapter 536, RSMo, for implementation of this subsection.  
56 **Any long-term care facility that is not willing to work with the ombudsman program to**  
57 **resolve complaints shall be subject to licensure sanction for failure to participate in the**  
58 **ombudsman program.**

59 12. The office shall prepare and distribute to each facility written notices which set forth  
60 the address and telephone number of the office, a brief explanation of the function of the office,  
61 the procedure to follow in filing a complaint and other pertinent information.

62 13. The administrator of each facility shall ensure that such written notice is given to  
63 every resident or the resident's guardian upon admission to the facility and to every person  
64 already in residence, or to his **or her** guardian. The administrator shall also post such written  
65 notice in a conspicuous, public place in the facility in the number and manner set forth in the  
66 regulations adopted by the department.

67 14. The office shall inform residents, their guardians or their families of their rights and  
68 entitlements under state and federal laws and rules and regulations by means of the distribution  
69 of educational materials and group meetings.