

A BILL

22-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the District of Columbia Long-Term Care Ombudsman Program Act of 1988 to establish an Office of the Long-Term Care Ombudsman within the D.C. Office of Aging, to prohibit certain individuals from serving as the ombudsman, and to clarify the responsibilities of the ombudsman.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Long-Term Care Ombudsman Program Amendment Act of 2018”.

Sec. 2. The District of Columbia Long-Term Care Ombudsman Program Act of 1988, effective March 16, 1989 (D.C. Law 7-218; D.C. Official Code § 7-701.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-701.01) is amended as follows:

(1) Paragraph (7A) is amended by striking the phrase “means services” and inserting the phrase “means services and supports” in its place.

(2) Paragraph (8) is amended to read as follows:

“(8) “Ombudsman” means the individual responsible for administering the Long-Term Care Ombudsman Program established by section 202.”.

(3) A new paragraph (15) is added to read as follows:

“(15) “Office” means the Office of the District of Columbia Long-Term Care Ombudsman established by section 202, including the ombudsman and any employees or

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27 volunteers designated by the ombudsman to fulfill the duties set forth in 45 C.F.R. §
28 1324.19(a).”.

29 (b) Section 201 (D.C. Official Code § 7-702.01) is amended by striking the phrase
30 “District of Columbia within the Office on Aging. The program shall” and inserting the phrase
31 “District of Columbia. The program shall” in its place.

32 (c) Section 202 (D.C. Official Code § 7-702.02) is amended as follows:

33 (1) Subsection (a) is amended to read as follows:

34 “(a)(1) There is established within the Office of Aging the Office of the District of
35 Columbia Long-Term Care Ombudsman, which shall be headed by the ombudsman, who shall
36 be appointed by the Director except as provided in subsection (b) of this section. The
37 ombudsman shall administer the Program in coordination with the Director or his or her
38 designee.

39 (2) The ombudsman shall be appointed for a term of 2 years, and shall be a
40 resident of the District.”.

41 (2) Subsection (b) is amended by striking the phrase “and residents” and inserting
42 the phrase “and residents. Before contracting with a nonprofit provider, the Director shall ensure
43 that the provider does not have organizational conflicts in accordance with 45 C.F.R. §
44 1324.21(b)(3).” in its place.

45 (3) Subsection (d) is amended by striking the phrase “The primary responsibility”
46 and inserting the phrase “In addition to the functions set forth in 45 C.F.R. § 1324.13, the
47 primary responsibility” in its place.

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48 (d) Section 203 (D.C. Official Code § 7-702.03) is amended as follows:

49 (1) Subsection (b) is amended by striking the phrase “shall be an ombudsman”
50 and inserting the phrase “shall be appointed or employed as the ombudsman” in its place.

51 (2) New subsections (d) and (e) are added to read as follows:

52 “(d) No person who has been directly involved in the licensing or certification of any
53 long-term care facility shall be appointed or employed as the ombudsman.

54 “(e) No person who has been employed by or participated in the management of a long-
55 term care facility within the previous 12 months shall be appointed or employed as the
56 ombudsman.”.

57 (e) Section 204(a) (D.C. Official Code § 7-702.04(a)) is amended as follows:

58 (1) Paragraph (4) is amended to read as follows:

59 “(4) By January 1, 2019, and on an annual basis thereafter, submit the report
60 described in 45 C.F.R. § 1324.13(g);”.

61 (2) Paragraph (5) is amended by striking the phrase “on behalf of the Office on
62 Aging and with the approval of the Director” and inserting the phrase “as necessary” in its place.

63 (3) Paragraph (12) is amended to read as follows:

64 “(12) Monitor, analyze and make recommendations regarding the development
65 and implementation of District and federal laws, rules, regulations and other governmental
66 policies and actions pertaining to the health, safety, welfare, and rights of residents;”.

67 (4) Paragraph (13) is amended to read as follows:

68 “(13) Make specific recommendations to the operator or agent of the operator of
69 any long-term care facility, whenever the ombudsman believes that conditions exist that
70 adversely affect residents’ health, safety, welfare, or rights, in accordance with the disclosure
71 requirements set forth in section 712(d) of the Older Americans Act of 1965, approved
72 September 30, 1992 (106 Stat. 1195; 42 U.S.C. § 3058g(d)), and 45 C.F.R. § 1324.11(e)(3);”.

73 (5) Paragraph (14) is amended by striking the phrase “District law, regulation, or
74 rule” and inserting the phrase ““District law, regulation, or rule, in accordance with the
75 disclosure requirements set forth in section 712(d) of the Older Americans Act of 1965,
76 approved September 30, 1992 (106 Stat. 1195; 42 U.S.C. § 3058g(d)), and 45 C.F.R. §
77 1324.11(e)(3);” in its place.

78 (6) Paragraph (16) is amended to read as follows:

79 “(16) Provide ongoing support as requested by residents and family councils to
80 protect the well-being and rights of residents;”.

81 (7) Paragraph (18) is amended by striking the word “and”.

82 (8) Paragraph (19) is amended by striking the period and inserting the phrase “;
83 and” in its place.

84 (9) A new paragraph (20) is added to read as follows:

85 “(20) Perform any other acts as required by 45 C.F.R. §§ 1324.13 and 1324.19.”.

86 Sec. 3. Fiscal impact statement.

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87 The Council adopts the fiscal impact statement in the committee report as the fiscal
88 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
89 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

90 Sec. 4. Effective date.

91 This act shall take effect following approval by the Mayor (or in the event of the veto by
92 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review
93 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
94 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
95 Columbia Register.