

Legislative Analysis



VETERAN ABUSE REPORTING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6080 as introduced
Sponsor: Rep. Beau Matthew LaFave

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6081 as introduced
Sponsor: Rep. Robert J. Bezotte

House Bill 6082 as introduced
Sponsor: Rep. Rachel Hood

House Bill 6084 as introduced
Sponsor: Rep. Tullio Liberati, Jr.

House Bill 6083 as introduced
Sponsor: Rep. Richard M. Steenland

House Bill 6142 as introduced
Sponsor: Rep. David W. Martin

Committee: Military, Veterans and Homeland Security
Revised 6-13-22

SUMMARY:

House Bills 6080, 6081, 6082, and 6142 would amend 2016 PA 198, which creates the office of the Michigan Veterans' Facility Ombudsman and prescribes its powers and duties.

The act currently allows the ombudsman to commence an investigation upon his or her own initiative or upon receiving a complaint concerning an administrative act, medical treatment of a *resident veteran*, or a condition existing at a facility that poses a significant health or safety issue for which there is not an effective administrative remedy or which is alleged to be against the law or the policy of the Department of Military and Veterans Affairs (DMVA). The act allows complaints to be filed by a resident veteran, a family member of a resident veteran, a legal guardian or individual with power of attorney for a resident veteran, or a state representative or senator.

Resident veteran means a veteran who is a resident of a Michigan veterans' facility or an individual who is a resident of a facility because of the individual's relationship with a veteran.

The bills would additionally allow the ombudsman to immediately commence an independent investigation of a *report of abuse* upon receiving the report. Any person could file a report of abuse.

Report of abuse would mean a report of suspected or alleged *abuse, neglect, or exploitation* concerning a resident veteran.

Abuse would mean harm or threatened harm to an *adult's* health or welfare caused by another person and would include nonaccidental physical or mental injury, sexual abuse, or maltreatment.

Neglect would mean harm to an *adult's* health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect would include the failure to provide adequate food, clothing, shelter, or medical care. (A person would not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.)

Exploitation would mean an action that involves the misuse of an *adult's* funds, property, or personal dignity by another person.

Adult would mean a *vulnerable* person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

Vulnerable would mean a condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.

The DMVA or an employee of a veterans' facility would have to forward to the ombudsman a written copy of any report of abuse received.

Within 10 business days after receiving a complaint of abuse and deciding to investigate it, the ombudsman would have to notify the complainant, the affected resident veteran, the DMVA, and the Department of Licensing and Regulatory Affairs (LARA). If the ombudsman declines to investigate, the ombudsman would have to notify the complainant in writing within 10 business days and inform the affected resident veteran of the reasons for the decision.

In an investigation, the ombudsman could interview any individual with personal knowledge of the events described in the report of abuse. The ombudsman would have to establish procedure for receiving and processing reports of abuse, conducting investigations, holding hearings, and reporting findings, subject to the approval of the Legislative Council.

Within 10 days after completing an investigation of a report of abuse that is found to have merit, the ombudsman would have to prepare a report of findings and recommendations and submit the report to the Legislative Council. The council would have to forward such a report to LARA.

If LARA conducted an investigation of a report of abuse, it would have to prepare a written report of the investigation and its findings and forward a copy to the ombudsman and DMVA.

The bill would prohibit a resident veteran from being penalized in any way by a person, a facility, or the DMVA as a result of filing a report of abuse, communicating a report of

abuse to a state legislator, or cooperating with the ombudsman in an investigation of a report of abuse.

The ombudsman would have to include reports of abuse for each veterans' facility in the semiannual report now submitted to the Legislative Council, ombudsman board of managers, and legislature.

House Bills 6080, 6081, 6082, and 6142 are all tie-barred to one another, which means that none of the bills could take effect unless all of them were enacted.

MCL 4.771 et seq. (HB 6080)

MCL 4.774 (HB 6081)

MCL 4.780 (HB 6082)

Proposed MCL 4.784a (HB 6142)

House Bill 6083 would create a new act, the Veteran Abuse Reporting Act, which would require a state department, state or local law enforcement agency, or prosecutor that receives a report of abuse (defined as above) to notify one of the following within 24 hours after receiving the report:

- The county department of veterans' affairs of the county in which the report of abuse occurred.
- The county board of commissioners if the county has not created a county department of veterans' affairs,

The notice would have to must include the name of the veteran and a description of the suspected or alleged abuse, neglect, or exploitation contained in the report of abuse. If possible, the notice would have to include the veteran's age and the name and address of the veteran's guardian or next of kin. The notice would have to include other available information that may establish the cause of the suspected or alleged abuse, neglect, or exploitation and the manner in which the suspected or alleged abuse, neglect, or exploitation occurred or is occurring.

A county department of veterans' affairs that receives a notice described above would have to proceed as required by HB 6084 (described below).

A county board of commissioners that receives a notice described above would have to do both of the following:

- Contact the veteran identified in the report of abuse directly or contact the veteran's legal guardian or an individual with power of attorney for the veteran.
- Refer the veteran to services administered by the DMVA.

House Bill 6084 would amend 1953 PA 192, which provides for county departments of veterans' affairs, to provide that a county department of veterans' affairs that receives a notice as described in House Bill 6083 must do both of the following:

- Contact the veteran identified in the report of abuse directly or contact the veteran's legal guardian or an individual with power of attorney for the veteran.

- Refer the veteran to services administered by the DMVA.

Proposed MCL 35.624b

House Bills 6083 and 6084 are tie-barred together, which means that neither bill could take effect unless both bills were enacted.

FISCAL IMPACT:

The bills would not be expected to have a fiscal impact on the Michigan Veterans' Facility Ombudsman. Potential costs would depend on the number of reports of abuse that the ombudsman receives as a result of the bills and whether an increase in reports would require additional staff to comply with the bills' provisions for investigations. It is expected that existing personnel would be able to satisfy the requirements.

House Bill 6142 may result in minor costs for the Department of Licensing and Regulatory Affairs for completing required reporting under the bill. The volume of reports would likely be low and, therefore, the impact on the department is projected to be minimal.

The bills would have no fiscal impact on counties or other local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.