

**DISABILITY OMBUDSMAN PROGRAM**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jennifer Dailey-Provost**

Senate Sponsor: Todd D. Weiler

Cosponsor:

Ryan D. Wilcox

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**LONG TITLE**

**General Description:**

This bill creates a disability ombudsman program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Division of Services for People with Disabilities (division) to appoint a disability ombudsman;
- ▶ describes the powers and duties of the disability ombudsman;
- ▶ requires the disability ombudsman to keep certain records confidential;
- ▶ provides that the disability ombudsman is only required to testify in court regarding confidential records under certain circumstances; and
- ▶ requires the division to make administrative rules regarding certain duties of the disability ombudsman.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2023:

- ▶ to Department of Health and Human Services -- Long-Term Services and Supports -- Services for People with Disabilities, as an ongoing appropriation:
  - from General Fund, \$143,000.

**Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 [62A-5-501](#), Utah Code Annotated 1953

33 [62A-5-502](#), Utah Code Annotated 1953

34 [62A-5-503](#), Utah Code Annotated 1953

35 [62A-5-504](#), Utah Code Annotated 1953

36 [62A-5-505](#), Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section [62A-5-501](#) is enacted to read:

40 **Part 5. Disability Ombudsman Program**

41 **62A-5-501. Definitions.**

42 As used in this part:

43 (1) "Complainant" means a person who initiates a complaint.

44 (2) "Complaint" means a complaint initiated with the ombudsman identifying a person  
45 who has violated the rights and privileges of an individual with a disability.

46 (3) "Ombudsman" means the ombudsman appointed in Section [62A-5-502](#).

47 (4) "Rights and privileges of an individual with a disability" means the rights and  
48 privileges of an individual with a disability described in Subsections [62A-5b-103\(1\)](#) through  
49 (3).

50 Section 2. Section [62A-5-502](#) is enacted to read:

51 **62A-5-502. Disability ombudsman -- Purpose -- Appointment -- Qualifications --**  
52 **Staff.**

53 (1) There is created within the division the position of disability ombudsman for the  
54 purpose of promoting, advocating, and ensuring the rights and privileges of an individual with  
55 a disability are upheld.

56 (2) The director shall appoint an ombudsman who has:

- 57 (a) recognized executive and administrative capacity; and
- 58 (b) experience in laws and policies regarding individuals with a disability.
- 59 (3) The ombudsman may hire staff as necessary to carry out the duties of the
- 60 ombudsman under this part.

61 Section 3. Section **62A-5-503** is enacted to read:

62 **62A-5-503. Powers and duties of ombudsman.**

63 The ombudsman shall:

- 64 (1) develop and maintain expertise in laws and policies governing the rights and
- 65 privileges of an individual with a disability;
- 66 (2) provide training and information to private citizens, civic groups, governmental
- 67 entities, and other interested parties across the state regarding:
  - 68 (a) the role and duties of the ombudsman;
  - 69 (b) the rights and privileges of an individual with a disability; and
  - 70 (c) services available in the state to an individual with a disability;
- 71 (3) develop a website to provide the information described in Subsection (2) in a form
- 72 that is easily accessible;
- 73 (4) receive, process, and investigate complaints in accordance with this part;
- 74 (5) review periodically the procedures of state entities that serve individuals with a
- 75 disability;
- 76 (6) cooperate and coordinate with governmental entities and other organizations in the
- 77 community in exercising the duties under this section, including the long-term care
- 78 ombudsman program, created in Section [62A-3-203](#), and the child protection ombudsman,
- 79 appointed under Section [62A-4a-208](#), when there is overlap between the responsibilities of the
- 80 ombudsman and the long-term care ombudsman program or the child protection ombudsman;
- 81 (7) as appropriate, make recommendations to the division regarding rules to be made in
- 82 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the
- 83 ombudsman considers necessary to carry out the ombudsman's duties under this part;
- 84 (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a

85 report describing:

86 (a) the work of the ombudsman; and

87 (b) any recommendations for statutory changes to improve the effectiveness of the

88 ombudsman in performing the duties under this section; and

89 (9) perform other duties required by law.

90 Section 4. Section **62A-5-504** is enacted to read:

91 **62A-5-504. Investigation of complaints -- Procedures -- Rulemaking.**

92 (1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a

93 complaint, investigate the complaint.

94 (2) An ombudsman's investigation of a complaint may include:

95 (a) a referral to a governmental entity or other services;

96 (b) the collection of facts, information, or documentation;

97 (c) holding an investigatory hearing; or

98 (d) an inspection of the premises of the person named in the complaint.

99 (3) (a) The ombudsman may decline to investigate a complaint.

100 (b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify

101 the complainant and the division of the declination.

102 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

103 Administrative Rulemaking Act, that govern the ombudsman's process for:

104 (a) receiving and processing complaints; and

105 (b) conducting an investigation in accordance with this section.

106 Section 5. Section **62A-5-505** is enacted to read:

107 **62A-5-505. Confidentiality of materials relating to complaints or investigations --**

108 **Rulemaking.**

109 (1) The division shall establish procedures by rule made in accordance with Title 63G,

110 Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the

111 ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

112 (2) The identity of a complainant or a party named in the complaint may not be

113 disclosed by the ombudsman unless:

114 (a) the complainant or a legal representative of the complainant consents to the  
115 disclosure;

116 (b) disclosure is ordered by a court of competent jurisdiction; or

117 (c) the disclosure is approved by the ombudsman and is made, as part of an  
118 investigation involving the complainant, to an agency or entity in the community that:

119 (i) has statutory responsibility for the complainant, over the action alleged in the  
120 complaint, or another party named in the complaint;

121 (ii) is able to assist the ombudsman to achieve resolution of the complaint; or

122 (iii) is able to provide expertise that would benefit the complainant.

123 (3) Neither the ombudsman nor the ombudsman's designee may be required to testify in  
124 court with respect to confidential matters, except as the court finds necessary to enforce this  
125 part.

126 **Section 6. Appropriation.**

127 The following sums of money are appropriated for the fiscal year beginning July 1,  
128 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for  
129 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
130 Act, the Legislature appropriates the following sums of money from the funds or accounts  
131 indicated for the use and support of the government of the state of Utah.

132 ITEM 1

133 To Department of Health and Human Services -- Long-Term Services and Supports

134 From General Fund \$143,000

135 Schedule of Programs:

136 Services for People with Disabilities \$143,000

137 The Legislature intends that the appropriations under this item be used for the disability  
138 ombudsman program described in Title 62A, Chapter 5, Part 5, Disability Ombudsman  
139 Program.