

SENATE BILL REPORT

2ESSB 5522

As Passed Senate, January 30, 2002

Title: An act relating to creating an office of mental health ombudsman.

Brief Description: Creating an office of mental health ombudsman.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kastama, Hargrove, Thibaudeau, Winsley, Kohl-Welles, Long, Costa, Snyder, Deccio, Fraser and Rasmussen).

Brief History:

Committee Activity: Human Services & Corrections: 2/9/01, 2/22/01 [DPS].

Passed Senate: 3/9/01, 49-0; 1/30/02, 47-1.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5522 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Carlson, Franklin, Hewitt, Kastama, Kohl-Welles, Long and Stevens.

Staff: Edith Rice (786-7444)

Background: Use of federal managed mental health care waiver funds requires that ombudsman and quality review team services be provided to mental health consumers. There is currently no centralized mental health ombudsman program in Washington State. At this time, ombudsman and quality review team services are provided within the Regional Support Networks (RSNs) and state psychiatric hospitals. Under the current system, ombudsmen are required to be "functionally independent."

Concerns have been expressed that: (1) ombudsman and quality review team members employed and/or supported by the RSNs and state hospitals are not free to act in an independent manner; (2) there are no uniform reporting requirements, systems, or standards of service quality; and (3) the current system does not have the same level of authority as other state ombudsman programs.

Summary of Bill: A centralized, independent, Office of Mental Health Ombudsman (OMHO) is created. Services are provided by a nonprofit organization contracting with the Department of Community, Trade, and Economic Development (CTED). CTED chooses the contractor through a competitive process involving stakeholders, provides some administrative support, and does an annual review to ensure contract compliance.

The OMHO may provide ombudsman and quality review team services directly or by subcontract. The OMHO must investigate and resolve complaints at the lowest level appropriate, and establish a statewide uniform reporting system. Its quality review teams

must define, establish, and measure systemic consumer outcomes. The OMHO must report to the Legislature annually, and include outcome measurements and recommendations to improve service quality.

The OMHO must develop and implement working agreements to coordinate services with other state ombudsman programs and entities. The OMHO also must establish working agreements with each RSN, the state psychiatric hospitals, and the Department of Social and Health Services Mental Health Division. The RSNs and state hospitals must cooperate with the OMHO and respond in writing to all recommendations, identifying the actions taken to address them.

The Legislature intends that for the purposes of the state mental health ombudsman program that CTED expend no more than the amount currently expended by: (1) the state hospitals and RSNs on ombudsman and quality review teams services and related administrative costs; and (2) the Mental Health Division on related staff support and training. This applies for the first two years after enactment, and with the exception of additional funds that may be appropriated by the Legislature.

The Legislature intends that the centralized ombudsman program make reasonable efforts to maintain and improve the quality and level of ombudsman and quality review team services, taking into account the transition period.

Appropriation: None.

Fiscal Note: Available; requested on substitute on March 6, 2001.

Effective Date: The bill takes effect July 1, 2003.

Testimony For: The Long-Term Care and Family and Children's Ombudsman programs work well, in great part due to their independence. There is a quality difference between the ombudsmen services of each RSN; quality needs to be assured across the state. The original intent was for the ombudsman program to be independent; this never happened and the RSNs have resisted defining and standardizing the meaning of independence. Independent ombudsmen improve accountability, have greater credibility, and can help in observing outcomes and assessing needed systemic changes. Independent ombudsmen make decisions on behalf of the consumer, not as an employee. There is a lot of resistance to providing services under the current system, and consumers suffer as a result. Ombudsmen and quality review team members who have tried to change the system have been penalized.

Testimony Against: Many of the ombudsmen programs in the Regional Support Networks work very well. Some RSNs put more effort into their programs than others, and standardization could drastically reduce the quality in the RSNs that are currently performing well. Standardization also does not allow for the unique needs of each individual RSN. Current ombudsmen should be allowed to retain their jobs under the new system. The transition to a new system could lead to high turnover among staff and could leave people unserved. The bill as written does not create a system that would work well. **Concerns:** Department of Corrections' security needs all visitors, including ombudsmen, to pass criminal background checks and give adequate notice before visiting. The bill should also provide for current volunteer and employee ombudsmen at state hospitals to apply for new ombudsmen

positions. The threat of civil fines is needed as an enforcement against retaliation. The bill needs stronger wording about recruiting consumers as ombudsmen. The role and responsibilities of the quality review teams is not adequately addressed in the bill. There is potential for duplication of services between the Long-Term Care Ombudsman program and the Mental Health Ombudsman program.

Testified: Senator Jim Kastama, sponsor (pro); Peggy Maze Johnson, (pro); Elizabeth Stanhope, Washington Protection and Advocacy (pro); Jean Wessman, Washington Association of Counties (con); Jennifer Dailey Helgestad, Pierce County Ombudsman (con); Stephanie Kerk, Pierce County Regional Support Network (con); Esther Gregg, Chair, Wahkiakum County Commission (pro); Becky Coward, Timberland Regional Support Network (pro); Tom Richardson, National Alliance for the Mentally Ill (pro); Robin Grupper, ombudsman (pro); Marie Jubie, North Sound RSN Advisory Board (pro); Jack Morris, DSHS Mental Health Division (concerns); Sherry Storms, Mental Health Ombuds Service of King County (con); Kary Hyre, Long-Term Care Ombudsman (pro); David Lord, Washington Protection and Advocacy (pro); Denny Naughton, Office of Community Development (concerns); Doreen Geiger, Department of Corrections (concerns); Andrea Stephenson, Empower Alliance (pro with concerns); Carole Willey, Holistic Health and Advocacy (pro).