

RCW 43.190.030 Office of state long-term care ombuds created—

Powers and duties—Rules. There is created the office of the state long-term care ombuds. The department of commerce shall contract with a private nonprofit organization to provide long-term care ombuds services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of commerce shall ensure that all program and staff support necessary to enable the ombuds to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombuds services. The department of commerce shall adopt rules to carry out this chapter and the long-term care ombuds provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ombuds program shall have the following powers and duties:

- (1) To provide services for coordinating the activities of long-term care ombuds throughout the state;
- (2) Carry out such other activities as the department of commerce deems appropriate;
- (3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombuds to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;
- (4) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and
- (5) Establish procedures to assure that any files maintained by ombuds programs shall be disclosed only at the discretion of the ombuds having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombuds unless:
 - (a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or
 - (b) Such disclosure is required by court order. [2013 c 23 s 89; 1997 c 194 s 1; 1995 c 399 s 105; 1988 c 119 s 2; 1983 c 290 s 3.]

Effective date—1988 c 119 s 2: "Section 2 of this act shall take effect July 1, 1989." [1988 c 119 s 5.]

Legislative findings—1988 c 119: "The legislature recognizes that the state long-term care ombudsman [ombuds] program and the office of the state long-term care ombudsman [ombuds], located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an

organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman [ombuds] services." [1988 c 119 s 1.]

Survey—1988 c 119: "The committee on health care of the house of representatives shall conduct a survey and analysis of the appropriate placement outside of state government of the office of the state long-term care ombudsman [ombuds]. The survey shall ascertain how the contracted placement of the office will most effectively allow it to meet its responsibilities under chapter 43.190 RCW. A draft of the findings shall be submitted to the governor and the legislature before the first Friday in November 1988 and the final findings, conclusions, and recommendations shall be submitted in a report to the governor and the legislature no later than December 30, 1988.

The survey required shall include, but is not limited to, a complete assessment of how independently contracting the program outside state government will provide the office with an effective means for resolving complaints and building program accountability and integrity facilitating local involvement and contributing to long-term care policy development. The study shall also clearly identify and describe how this model for administering the duties and responsibilities of the ombudsman [ombuds] will affect the ability of the office to function as mandated under the federal older Americans act, and provide suggestions that will assist the office to coordinate information and assistance, to the fullest degree possible, with citizen groups, the general public, the nursing home industry, and local volunteer programs. The survey shall further specify the operational program details necessary for adopting the proposed independently contracted plan." [1988 c 119 s 3.]

Use of survey findings—1988 c 119: "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman [ombuds] services." [1988 c 119 s 4.]