

FACILITY ACCESS FOR LONG-TERM CARE OMBUDSMAN

Phone: (517) 373-8080
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Senate Bill 213 (H-1) as reported from House committee

Sponsor: Sen. Kimberly LaSata

House Committee: Families, Children and Seniors

Senate Committee: Health Policy and Human Services

Complete to 12-1-21

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

(Enacted as Public Act 159 of 2021)

SUMMARY:

Senate Bill 213 would amend the Older Michiganians Act to provide that certain visitation restrictions imposed on long-term care facilities do not apply to a representative of the long-term care ombudsman program. The bill also would modify the scope of the access that must be provided to representatives of the program.

The long-term care ombudsman program includes a state long-term ombudsman and a system of local and regional ombudsman offices that are funded through local area agencies on aging. Representatives of the program conduct routine visits to licensed long-term care facilities to observe conditions and discuss those conditions or particular situations with residents, families, and staff. (Long-term care facilities include nursing homes, homes for the aged, adult foster care homes, county medical care facilities, and hospital long-term care units.) The program also must investigate complaints, make referrals, provide education and outreach services, and monitor and develop state and federal laws and rules.

The act currently provides that the state long-term care ombudsman, local or regional long-term care ombudsmen, and their trained volunteers must be allowed ***access*** to any long-term care facility during specified times in order to carry out the responsibilities of the program.

Access means the right to do all of the following:

- Enter a facility and identify himself or herself.
- Seek consent from a resident to communicate privately and without restriction.
- Communicate privately and without restriction with a resident who consents.
- Observe all resident areas of the facility except the living area of a resident who objects.

The bill would further provide that a restriction placed on the ability to visit a resident of a long-term care facility does not apply to a representative of the long-term care ombudsman program, who must be allowed ***access*** to the facility to carry out his or her duties under the act. The facility would have to make a good-faith effort to facilitate a virtual, outdoor, window, or telephonic visit within 24 hours after receiving a request from the long-term care ombudsman or a representative of the program. An individual entering a facility to carry out duties under the act would have to take any necessary proper precautions to protect the health of residents or staff at the facility, such as getting appropriate screening and using personal protective equipment.

The bill would define **access** as the right to do all of the following:

- Enter a long-term care facility, and identify himself or herself, at any time during that long-term care facility's regular business or visiting hours and at any other time when access may be required by the circumstances to be investigated. (Changed from current law.)
- Seek consent from a resident to communicate privately and without restriction. (Same as current law.)
- Communicate privately and without restriction with a resident who consents. (Same as current law.)
- Observe all resident areas of the facility except the living area of a resident who objects. (Same as current law.)
- Obtain the name and contact information of a resident's representative if needed to perform functions and duties under the act. (Added by the bill.)
- Review and receive upon request copies of long-term care facility licensing and certification records kept by the state that either are not confidential or can be released without specific approval from the Centers for Medicare and Medicaid Services. (Added by the bill.)

Finally, the bill would remove the specific times when access now must be allowed to representatives of the long-term ombudsman program. Under the bill, times of access would be as provided in the definition of the term access, described above.

The bill would take effect 90 days after being enacted.

MCL 400.586i

FISCAL IMPACT:

The bill would not have a direct fiscal impact on the state or local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bill (10-5-21):

- Michigan Long Term Care Ombudsman Program
- Health Care Association of Michigan

Michigan Elder Justice Initiative indicated support for the bill. (10-26-21)

Legislative Analyst: E. Best
Fiscal Analysts: Kevin Koorstra
Sue Frey

■ 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.