Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2065
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-10.1-02, 50-10.1-04, 50-10.1-05, and 50-10.1-07 of the North Dakota Century Code, relating to appointment of state and local ombudsmen, ombudsmen access to facilities and records, posting information about the ombudsman program, and confidentiality of ombudsman records and files.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-02. Appointment of state and ~~regional~~local long-term care ombudsmen.

The ~~executive director of the~~ department shall ~~appoint~~employ a state long-term care ombudsman and ~~such regional~~local long-term care ombudsmen as the ~~executive director deems~~department determines necessary within the limits of legislative appropriations.

SECTION 2. AMENDMENT. Section 50-10.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-04. Access to facilities and records.

To carry out the powers and duties of this chapter, the state long-term care ombudsman and the ombudsman's authorized agents shall:

1. Have ~~reasonable~~ access to all long-term care facilities within the state and shall have private access to any resident within any long-term care facility within the state. ~~Reasonable access is defined as access by an ombudsman during normal working hours or by appointment and upon notification to the administrator or person in charge of the facility.~~

2. Have access to all ~~personal~~social and medical records of ~~any~~a resident ~~of a long-term care facility who has sought ombudsman services, or on whose behalf such services have been sought, except that no record may be obtained without the written consent of a resident or a legal representative of a resident, or unless a court orders the disclosure~~if:

   a. The ombudsman or the ombudsman's authorized agent has the permission of the resident or the legal representative of the resident;

   b. Access to the records is necessary to investigate a complaint and the resident is unable to consent to the review and has no legal representative; or

   c. A legal representative of the resident refuses to give the permission and the ombudsman or the ombudsman's authorized agent has reasonable cause to believe that the legal representative is not acting in the best interests of the resident and the state long-term care ombudsman approves access.

SECTION 3. AMENDMENT. Section 50-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-05. ~~Chapter~~Information to be posted - Retaliation prohibited.

~~A copy of this chapter~~Information about the ombudsman program must be posted in a conspicuous place in each long-term care facility, along with ~~a statement of the right~~how to file a complaint concerning administrative actions which affect any resident and the address where a complaint may be filed. Each resident, the spouse of each resident having a spouse, and any designated representative of a resident must be provided with ~~copies of the posted documents~~information about the ombudsman program at the time the resident is admitted to the long-term care facility. A long-term care facility, and its agents, may not take or threaten retaliatory action against a resident, employee, or any other person on account of the filing of a complaint by or on behalf of that resident, or on account of the providing of information to a long-term care ombudsman constituting or relating to a complaint.

SECTION 4. AMENDMENT. Section 50-10.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-07. Confidentiality and disclosure of records and files.

Those records and files of the state and ~~regional~~local ombudsman, and their authorized agents, which relate to, or identify any resident of a long-term care facility or a complainant, are confidential and may not be disclosed unless:

1. A resident, or a legal guardian or attorney in fact, consents in writing to the release of the information and designates to whom the information must be disclosed;

2. The ombudsman authorizes a disclosure which does not reveal the identity of any complainant or resident; or

3. A court of competent jurisdiction orders the disclosure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2065.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 86	Nays 0	Absent 8

Secretary of the Senate

Received by the Governor at 4:40 P.M. on April 6, 2015.

Approved at 10:42 A.M. on April 8, 2015.

Governor

Filed in this office this 8th day of April, 2015,

at 3:30 o'clock P M.

Secretary of State