- 1 AN ACT concerning senior citizens.
- 2 Be it enacted by the People of the State of Illinois,
- 3 represented in the General Assembly:
- 4 Section 5. The Illinois Act on the Aging is amended by
- 5 changing Section 4.04 as follows:
- 6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)
- 7 Sec. 4.04. Long Term Care Ombudsman Program.
- 8 (a) Long Term Care Ombudsman Program. The Department
- 9 shall establish a Long Term Care Ombudsman Program, through
- 10 the Office of State Long Term Care Ombudsman ("the Office"),
- in accordance with <u>Sections 711 and 712</u> the-provisions of the
- 12 Older Americans Act of 1965, as now or hereafter amended.
- 13 (b) Definitions. As used in this Section, unless the
- 14 context requires otherwise:
- 15 (1) "Access" has the same meaning as in Section
- 16 1-104 of the Nursing Home Care Act, as now or hereafter
- amended; that is, it means the right to:
- 18 (i) Enter any long term care facility or
- 19 assisted living or shared housing establishment or
- 20 <u>supportive living facility</u>;
- 21 (ii) Communicate privately and without
- 22 restriction with any resident who consents to the
- 23 communication;
- 24 (iii) Seek consent to communicate privately
- and without restriction with any resident;
- 26 (iv) Inspect the clinical and other records of
- 27 a resident with the express written consent of the
- 28 resident;
- (v) Observe all areas of the long term care
- facility or <u>supportive living facilities</u>, assisted
- 31 living or shared housing establishment except the

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living area of any resident who protests the observation.

- (2) "Long Term Care Facility" means (i) any facility as defined by Section 1-113 of the Nursing Home Care Act, as now or hereafter amended; and (ii) any skilled nursing facility or a nursing facility which meets the requirements of Section 1819(a), (b), (c), and (d) or Section 1919(a), (b), (c), and (d) of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and (d)).
  - (2.5) "Assisted living establishment" and "shared housing establishment" have the meanings given those terms in Section 10 of the Assisted Living and Shared Housing Act.
  - (2.7) "Supportive living facility" means a facility established under Section 5-5.01a of the Illinois Public Aid Code.
- (3) "State Long Term Care Ombudsman" means any person employed by the Department to fulfill the requirements of the Office of State Long Term Care Ombudsman as required under the Older Americans Act.
- 31 (c) Ombudsman; rules. The Office of State Long Term Care
  32 Ombudsman shall be composed of at least one full-time
  33 ombudsman within-the-Department and shall include a system of
  34 designated regional sub-State long term care ombudsman

2 by the <u>State Long Term Care Ombudsman</u> Department as a

3 subdivision of the Office and any <u>designated</u> representative

4 of a regional sub-State program shall be treated as a

5 representative of the Office.

6 Office and the Department shall promulgate 7 administrative rules in accordance with all Ombudsman provisions of the Older Americans Act, as amended to 8 9 establish the responsibilities of the Department and the Office of State Long Term Care Ombudsman and the designated 10 11 regional Ombudsman programs. The administrative rules shall include the responsibility of the Office and designated 12 regional programs to investigate and resolve complaints made 13 by or on behalf of residents of long term care facilities, 14 15 supportive living facilities, and assisted living and shared 16 housing establishments relating to actions, inaction, or decisions of providers, or their representatives, of long 17 term care facilities, of supported living facilities, of 18 19 assisted living and shared housing establishments, of public agencies, or of social services agencies, which may adversely 20 21 affect the health, safety, welfare, or rights of such residents. When necessary and appropriate, representatives of 22 23 Office shall refer complaints to the appropriate regulatory State agency. The 24 Office Department 25 cooperate with the Department of Human Services in providing 26 information and training to designated <u>regional</u> sub-State 27 term care ombudsman programs about the appropriate lona (including assessment and treatment information 28 29 appropriate supportive services, treatment options, 30 assessment of rehabilitation potential) of persons with mental illness (other than Alzheimer's disease and related 31 disorders). 32

(d) Access and visitation rights.

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34 (1) In accordance with subparagraphs (A) and (E) of

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paragraph (3) of subsection (c) of Section 1819 and subparagraphs (A) and (E) of paragraph (3) of subsection (c) of Section 1919 of the Social Security Act, as now or hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E) and 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712 of the Older Americans Act of 1965, as now or hereafter amended (42 U.S.C. 3058f), a long term care facility, supportive living facility, assisted establishment, and shared housing establishment must:

- (i) permit immediate access to any resident by a designated an ombudsman; and
- (ii) permit representatives of the Office, with the permission of the resident's legal representative or legal guardian, to examine a resident's clinical and other records, and if a resident is unable to consent to such review, has no legal guardian, permit representatives of the Office appropriate access, as defined by the Office Department in administrative rules and the Older Americans Act, to the resident's records.
- (2) Each long term care facility, supportive living facility, assisted living establishment, and shared housing establishment shall display, in conspicuous public places within the facility accessible to both visitors and residents patients and in an easily readable format, the address and phone number of the Office of the Long Term Care Ombudsman, in a manner prescribed by the Office.
- Immunity. An ombudsman or any <u>designated</u> other representative of the Office participating in the good faith performance of his or her official duties shall have immunity from any liability (civil, criminal or otherwise) in any proceedings (civil, criminal or otherwise) brought as a consequence of the performance of his official duties.

1 (f) Business offenses.

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- 2 (1) No person shall:
  - (i) Intentionally prevent, interfere with, or attempt to impede in any way any <u>designated</u> representative of the Office in the performance of his official duties under this Act and the Older Americans Act of 1965; or

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- (ii) Intentionally retaliate, discriminate against, or effect reprisals against any long term care facility resident or employee for contacting or providing information to any designated representative of the Office.
- (2) A violation of this Section is a business offense, punishable by a fine not to exceed \$501.
- Aging shall notify the State's Attorney of the county in which the long term care facility, supportive living facility, or assisted living or shared housing establishment is located, or the Attorney General, of any violations of this Section.
- or records maintained by the Office of State Long Term Care Ombudsman or designated regional program shall be disclosed to anyone other than the designated ombudsman unless the State Long Term Care Ombudsman or the designated ombudsman having the authority over the disposition of such files authorizes the disclosure in writing. Designated ombudsmen The--embudsman shall not disclose the identity of any complainant, resident, witness or employee of a long term care provider involved in a complaint or report unless such person or such person's guardian or legal representative consents in writing to the disclosure, or the disclosure is required by court order.
  - (h) Legal representation. The Attorney General shall

- 1 provide legal representation to any <u>designated</u> representative
- 2 of the Office against whom suit or other legal action is
- 3 brought in connection with the performance of the
- 4 representative's official duties, in accordance with the
- 5 State Employee Indemnification Act.
- 6 (i) Treatment by prayer and spiritual means. Nothing in
- 7 this Act shall be construed to authorize or require the
- 8 medical supervision, regulation or control of remedial care
- 9 or treatment of any resident in a long term care facility
- 10 operated exclusively by and for members or adherents of any
- 11 church or religious denomination the tenets and practices of
- 12 which include reliance solely upon spiritual means through
- 13 prayer for healing.
- 14 (Source: P.A. 90-639, eff. 1-1-99; 91-174, eff. 7-16-99;
- 15 91-656, eff. 1-1-01; 91-799, eff. 6-13-00.)
- 16 Section 99. Effective date. This Act takes effect upon
- 17 becoming law.