



Sen. Mattie Hunter

**Filed: 3/12/2024**

10300SB2957sam001

LRB103 38874 KTG 70280 a

1 AMENDMENT TO SENATE BILL 2957

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2957 by replacing  
3 everything after the enacting clause with the following:

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. The purpose  
8 of the Long Term Care Ombudsman Program is to ensure that older  
9 persons and persons with disabilities receive quality  
10 services. This is accomplished by providing advocacy services  
11 for residents of long term care facilities and participants  
12 receiving home care and community-based care. Managed care is  
13 increasingly becoming the vehicle for delivering health and  
14 long-term services and supports to seniors and persons with  
15 disabilities, including dual eligible participants. The  
16 additional ombudsman authority will allow advocacy services to

1 be provided to Illinois participants for the first time and  
2 will produce a cost savings for the State of Illinois by  
3 supporting the rebalancing efforts of the Patient Protection  
4 and Affordable Care Act.

5 (a) Long Term Care Ombudsman Program. The Department shall  
6 establish a Long Term Care Ombudsman Program, through the  
7 Office of State Long Term Care Ombudsman ("the Office"), in  
8 accordance with the provisions of the Older Americans Act of  
9 1965, as now or hereafter amended. The Long Term Care  
10 Ombudsman Program is authorized, subject to sufficient  
11 appropriations, to advocate on behalf of older persons and  
12 persons with disabilities residing in their own homes or  
13 community-based settings, relating to matters which may  
14 adversely affect the health, safety, welfare, or rights of  
15 such individuals.

16 (b) Definitions. As used in this Section, unless the  
17 context requires otherwise:

18 (1) "Access" means the right to:

19 (i) Enter any long term care facility or assisted  
20 living or shared housing establishment or supportive  
21 living facility;

22 (ii) Communicate privately and without restriction  
23 with any resident, regardless of age, who consents to  
24 the communication;

25 (iii) Seek consent to communicate privately and  
26 without restriction with any participant or resident,

1           regardless of age;

2           (iv) Inspect and copy the clinical and other  
3 records of a participant or resident, regardless of  
4 age, with the express written consent of the  
5 participant or resident, or if consent is given  
6 orally, visually, or through the use of auxiliary aids  
7 and services, such consent is documented  
8 contemporaneously by a representative of the Office in  
9 accordance with such procedures;

10          (v) Observe all areas of the long term care  
11 facility or supportive living facilities, assisted  
12 living or shared housing establishment except the  
13 living area of any resident who protests the  
14 observation; and

15          (vi) Subject to permission of the participant or  
16 resident requesting services or his or her  
17 representative, enter a home or community-based  
18 setting.

19          (2) "Long Term Care Facility" means (i) any facility  
20 as defined by Section 1-113 of the Nursing Home Care Act,  
21 as now or hereafter amended; (ii) any skilled nursing  
22 facility or a nursing facility which meets the  
23 requirements of Section 1819(a), (b), (c), and (d) or  
24 Section 1919(a), (b), (c), and (d) of the Social Security  
25 Act, as now or hereafter amended (42 U.S.C. 1395i-3(a),  
26 (b), (c), and (d) and 42 U.S.C. 1396r(a), (b), (c), and

1 (d)); (iii) any facility as defined by Section 1-113 of  
2 the ID/DD Community Care Act, as now or hereafter amended;  
3 (iv) any facility as defined by Section 1-113 of MC/DD  
4 Act, as now or hereafter amended; and (v) any facility  
5 licensed under Section 4-105 or 4-201 of the Specialized  
6 Mental Health Rehabilitation Act of 2013, as now or  
7 hereafter amended.

8 (2.5) "Assisted living establishment" and "shared  
9 housing establishment" have the meanings given those terms  
10 in Section 10 of the Assisted Living and Shared Housing  
11 Act.

12 (2.7) "Supportive living facility" means a facility  
13 established under Section 5-5.01a of the Illinois Public  
14 Aid Code.

15 (2.8) "Community-based setting" means any place of  
16 abode other than an individual's private home.

17 (3) "State Long Term Care Ombudsman" means any person  
18 employed by the Department to fulfill the requirements of  
19 the Office of State Long Term Care Ombudsman as required  
20 under the Older Americans Act of 1965, as now or hereafter  
21 amended, and Departmental policy.

22 (3.1) "Ombudsman" means any designated representative  
23 of the State Long Term Care Ombudsman Program; provided  
24 that the representative, whether he is paid for or  
25 volunteers his ombudsman services, shall be qualified and  
26 designated by the Office to perform the duties of an

1           ombudsman as specified by the Department in rules and in  
2           accordance with the provisions of the Older Americans Act  
3           of 1965, as now or hereafter amended.

4           (4) "Participant" means an older person aged 60 or  
5           over or an adult with a disability aged 18 through 59 who  
6           is eligible for services under any of the following:

7                   (i) A medical assistance waiver administered by  
8                   the State.

9                   (ii) A managed care organization providing care  
10                  coordination and other services to seniors and persons  
11                  with disabilities.

12          (5) "Resident" means an older person aged 60 or over  
13          or an adult with a disability aged 18 through 59 who  
14          resides in a long-term care facility.

15          (c) Ombudsman; rules. The Office of State Long Term Care  
16          Ombudsman shall be composed of at least one full-time  
17          ombudsman and shall include a system of designated regional  
18          long term care ombudsman programs. Each regional program shall  
19          be designated by the State Long Term Care Ombudsman as a  
20          subdivision of the Office and any representative of a regional  
21          program shall be treated as a representative of the Office.

22          The Department, in consultation with the Office, shall  
23          promulgate administrative rules in accordance with the  
24          provisions of the Older Americans Act of 1965, as now or  
25          hereafter amended, to establish the responsibilities of the  
26          Department and the Office of State Long Term Care Ombudsman

1 and the designated regional Ombudsman programs. The  
2 administrative rules shall include the responsibility of the  
3 Office and designated regional programs to investigate and  
4 resolve complaints made by or on behalf of residents of long  
5 term care facilities, supportive living facilities, and  
6 assisted living and shared housing establishments, and  
7 participants residing in their own homes or community-based  
8 settings, including the option to serve residents and  
9 participants under the age of 60, relating to actions,  
10 inaction, or decisions of providers, or their representatives,  
11 of such facilities and establishments, of public agencies, or  
12 of social services agencies, which may adversely affect the  
13 health, safety, welfare, or rights of such residents and  
14 participants. The Office and designated regional programs may  
15 represent all residents and participants, but are not required  
16 by this Act to represent persons under 60 years of age, except  
17 to the extent required by federal law. When necessary and  
18 appropriate, representatives of the Office shall refer  
19 complaints to the appropriate regulatory State agency. The  
20 Department, in consultation with the Office, shall cooperate  
21 with the Department of Human Services and other State agencies  
22 in providing information and training to designated regional  
23 long term care ombudsman programs about the appropriate  
24 assessment and treatment (including information about  
25 appropriate supportive services, treatment options, and  
26 assessment of rehabilitation potential) of the participants

1 they serve.

2 The State Long Term Care Ombudsman and all other  
3 ombudsmen, as defined in paragraph (3.1) of subsection (b)  
4 must submit to background checks under the Health Care Worker  
5 Background Check Act and receive training, as prescribed by  
6 the Illinois Department on Aging, before visiting facilities,  
7 private homes, or community-based settings. The training must  
8 include information specific to assisted living  
9 establishments, supportive living facilities, shared housing  
10 establishments, private homes, and community-based settings  
11 and to the rights of residents and participants guaranteed  
12 under the corresponding Acts and administrative rules.

13 (c-5) Consumer Choice Information Reports. The Office  
14 shall:

15 (1) In collaboration with the Attorney General, create  
16 a Consumer Choice Information Report form to be completed  
17 by all licensed long term care facilities to aid  
18 Illinoisans and their families in making informed choices  
19 about long term care. The Office shall create a Consumer  
20 Choice Information Report for each type of licensed long  
21 term care facility. The Office shall collaborate with the  
22 Attorney General and the Department of Human Services to  
23 create a Consumer Choice Information Report form for  
24 facilities licensed under the ID/DD Community Care Act or  
25 the MC/DD Act.

26 (2) Develop a database of Consumer Choice Information

1 Reports completed by licensed long term care facilities  
2 that includes information in the following consumer  
3 categories:

4 (A) Medical Care, Services, and Treatment.

5 (B) Special Services and Amenities.

6 (C) Staffing.

7 (D) Facility Statistics and Resident Demographics.

8 (E) Ownership and Administration.

9 (F) Safety and Security.

10 (G) Meals and Nutrition.

11 (H) Rooms, Furnishings, and Equipment.

12 (I) Family, Volunteer, and Visitation Provisions.

13 (3) Make this information accessible to the public,  
14 including on the Internet by means of a hyperlink on the  
15 Office's World Wide Web home page. Information about  
16 facilities licensed under the ID/DD Community Care Act or  
17 the MC/DD Act shall be made accessible to the public by the  
18 Department of Human Services, including on the Internet by  
19 means of a hyperlink on the Department of Human Services'  
20 "For Customers" website.

21 (4) Have the authority, with the Attorney General, to  
22 verify that information provided by a facility is  
23 accurate.

24 (5) Request a new report from any licensed facility  
25 whenever it deems necessary.

26 (6) Include in the Office's Consumer Choice



1 Information Report for each type of licensed long term  
2 care facility additional information on each licensed long  
3 term care facility in the State of Illinois, including  
4 information regarding each facility's compliance with the  
5 relevant State and federal statutes, rules, and standards;  
6 customer satisfaction surveys; and information generated  
7 from quality measures developed by the Centers for  
8 Medicare and Medicaid Services.

9 (d) Access and visitation rights.

10 (1) In accordance with subparagraphs (A) and (E) of  
11 paragraph (3) of subsection (c) of Section 1819 and  
12 subparagraphs (A) and (E) of paragraph (3) of subsection  
13 (c) of Section 1919 of the Social Security Act, as now or  
14 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and  
15 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the  
16 Older Americans Act of 1965, as now or hereafter amended  
17 (42 U.S.C. 3058f), a long term care facility, supportive  
18 living facility, assisted living establishment, and shared  
19 housing establishment must:

20 (i) permit immediate access to any resident,  
21 regardless of age, by a designated ombudsman;

22 (ii) permit representatives of the Office, with  
23 the permission of the resident, the resident's legal  
24 representative, or the resident's legal guardian, to  
25 examine and copy a resident's clinical and other  
26 records, including facility reports of incidents or

1           occurrences made to State agencies, regardless of the  
2           age of the resident, and if a resident is unable to  
3           consent to such review, and has no legal guardian,  
4           permit representatives of the Office appropriate  
5           access, as defined by the Department, in consultation  
6           with the Office, in administrative rules, to the  
7           resident's records; and

8           (iii) permit a representative of the Program to  
9           communicate privately and without restriction with any  
10          participant who consents to the communication  
11          regardless of the consent of, or withholding of  
12          consent by, a legal guardian or an agent named in a  
13          power of attorney executed by the participant.

14          (2) Each long term care facility, supportive living  
15          facility, assisted living establishment, and shared  
16          housing establishment shall display, in multiple,  
17          conspicuous public places within the facility accessible  
18          to both visitors and residents and in an easily readable  
19          format, the address and phone number of the Office of the  
20          Long Term Care Ombudsman, in a manner prescribed by the  
21          Office.

22          (e) Immunity. An ombudsman or any representative of the  
23          Office participating in the good faith performance of his or  
24          her official duties shall have immunity from any liability  
25          (civil, criminal or otherwise) in any proceedings (civil,  
26          criminal or otherwise) brought as a consequence of the

1 performance of his official duties.

2 (f) Business offenses.

3 (1) No person shall:

4 (i) Intentionally prevent, interfere with, or  
5 attempt to impede in any way any representative of the  
6 Office in the performance of his official duties under  
7 this Act and the Older Americans Act of 1965; or

8 (ii) Intentionally retaliate, discriminate  
9 against, or effect reprisals against any long term  
10 care facility resident or employee for contacting or  
11 providing information to any representative of the  
12 Office.

13 (2) A violation of this Section is a business offense,  
14 punishable by a fine not to exceed \$501.

15 (3) The State Long Term Care Ombudsman shall notify  
16 the State's Attorney of the county in which the long term  
17 care facility, supportive living facility, or assisted  
18 living or shared housing establishment is located, or the  
19 Attorney General, of any violations of this Section.

20 (g) Confidentiality of records and identities. The  
21 Department shall establish procedures for the disclosure by  
22 the State Ombudsman or the regional ombudsmen entities of  
23 files maintained by the program. The procedures shall provide  
24 that the files and records may be disclosed only at the  
25 discretion of the State Long Term Care Ombudsman or the person  
26 designated by the State Ombudsman to disclose the files and

1 records, and the procedures shall prohibit the disclosure of  
2 the identity of any complainant, resident, participant,  
3 witness, or employee of a long term care provider unless:

4 (1) the complainant, resident, participant, witness,  
5 or employee of a long term care provider or his or her  
6 legal representative consents to the disclosure and the  
7 consent is in writing;

8 (2) the complainant, resident, participant, witness,  
9 or employee of a long term care provider gives consent  
10 orally; and the consent is documented contemporaneously in  
11 writing in accordance with such requirements as the  
12 Department shall establish; or

13 (3) the disclosure is required by court order.

14 (h) Legal representation. The Attorney General shall  
15 provide legal representation to any representative of the  
16 Office against whom suit or other legal action is brought in  
17 connection with the performance of the representative's  
18 official duties, in accordance with the State Employee  
19 Indemnification Act.

20 (i) Treatment by prayer and spiritual means. Nothing in  
21 this Act shall be construed to authorize or require the  
22 medical supervision, regulation or control of remedial care or  
23 treatment of any resident in a long term care facility  
24 operated exclusively by and for members or adherents of any  
25 church or religious denomination the tenets and practices of  
26 which include reliance solely upon spiritual means through

1 prayer for healing.

2 (j) The Long Term Care Ombudsman Fund is created as a  
3 special fund in the State treasury to receive moneys for the  
4 express purposes of this Section. All interest earned on  
5 moneys in the fund shall be credited to the fund. Moneys  
6 contained in the fund shall be used to support the purposes of  
7 this Section.

8 (k) Each Regional Ombudsman may, in accordance with rules  
9 promulgated by the Office, establish a multi-disciplinary team  
10 to act in an advisory role for the purpose of providing  
11 professional knowledge and expertise in handling complex  
12 abuse, neglect, and advocacy issues involving participants.  
13 Each multi-disciplinary team may consist of one or more  
14 volunteer representatives from any combination of at least 7  
15 members from the following professions: banking or finance;  
16 disability care; health care; pharmacology; law; law  
17 enforcement; emergency responder; mental health care; clergy;  
18 coroner or medical examiner; substance abuse; domestic  
19 violence; sexual assault; or other related fields. To support  
20 multi-disciplinary teams in this role, law enforcement  
21 agencies and coroners or medical examiners shall supply  
22 records as may be requested in particular cases. The Regional  
23 Ombudsman, or his or her designee, of the area in which the  
24 multi-disciplinary team is created shall be the facilitator of  
25 the multi-disciplinary team.

26 (Source: P.A. 102-1033, eff. 1-1-23; 103-329, eff. 1-1-24.)".