

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1835

7 S.P. 710

In Senate, January 13, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

10 Reference to the Committee on Appropriations and Financial Affairs
suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.

11 Cosponsored by Representative Hickey of Augusta, Representative
Nelson of Portland and Senator Perkins of Hancock.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Provide an Ombudsman for Home Care
18 for Older Citizens.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 22 MRSA §5112, sub-§2, as amended by PL
23 1985, c. 89, is further amended to read:

24 2. Advocate. Serve as an advocate on behalf of
25 older people promoting and assisting activities de-
26 signed to meet at the national, state and community
27 levels the problems of older people. The committee
28 shall serve as an ombudsman on behalf of individual
29 citizens and older people as a class in matters under
30 the jurisdiction of State Government. It shall be a
31 spokesman on behalf of older people to the director,
32 commissioner, Governor, Legislature, public-at-large
33 and Federal Government.

34 In order to serve as advocate and ombudsman for older
35 people, the committee shall have the power to enter

1 onto the premises of any adult foster care facility
2 approved by the State according to section 7908, any
3 boarding care facility licensed according to section
4 7801 and any nursing home facility licensed according
5 to section 1817, any facility which provides congre-
6 gate housing services certified according to sections
7 5153 and 5154, any home health care provider licensed
8 according to section 2143 and any person or agency
9 contracting, arranging, providing or administering
10 home care services according to sections 7301 to 7305
11 and sections 7321 to 7323 in order to investigate
12 complaints concerning those facilities or services.
13 To carry out this function, the committee may enter
14 onto the premises of any adult foster care facility,
15 any boarding care facility ~~or~~ , any nursing home, any
16 congregate housing facility, any home health care
17 provider or any person or agency contracting, arrang-
18 ing, providing or administering home care services
19 during the course of an investigation, speak private-
20 ly with any individual therein who consents to the
21 conversation and inspect and copy all records per-
22 taining to a resident held by a facility or home re-
23 recipient of services in the facility or home, provided
24 that the resident recipient, or the legal representa-
25 tive of the resident recipient, consents in writing
26 to that inspection. The consent, where required and
27 not obtainable in writing, may be conveyed orally or
28 otherwise to the staff of the facility or home
29 agency. Where a resident recipient is not competent
30 to grant consent and has no legal representative, the
31 committee may inspect the resident's recipient's
32 records and may make such copies that do not contain
33 personally identifiable material without the written
34 consent of a duly appointed legal representative. The
35 committee may authorize up to 25 35 persons, includ-
36 ing committee members, staff of the committee and
37 other citizens, to carry out this function of the
38 committee pursuant to this subsection. Appropriate
39 identification shall be issued to all such persons.
40 The committee shall renew the authorization and reis-
41 sue identification annually. The findings of the com-
42 mittee shall be available to the public upon request.

43 No information or records maintained by the committee
44 relating to complaints may be disclosed unless the
45 ombudsman authorizes the disclosure; and the
46 ombudsman shall not disclose the identity of any com-
47 plainant or resident recipient unless:

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TOTAL

\$29,000

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STATEMENT OF FACT

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This bill clarifies the enabling law of the Maine Committee on Aging to ensure the availability of the ombudsman program to advocate on behalf of elderly consumers of home care services in the home. The Maine Committee on Aging has successfully administered the Nursing and Boarding Home Ombudsman Program since 1975. The Nursing and Boarding Home Ombudsman Program is operated within the broad mandate of the Maine Revised Statutes, Title 22, section 5112, which states that "the Committee shall serve as an ombudsman on behalf of individual citizens and older persons as a class....."

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In August of 1985, the Maine Committee on Aging voted to change the name of the Nursing and Boarding Home Ombudsman Program to the Long Term Care Ombudsman Program. This change is reflective of the committee's commitment to respond to concerns of consumers along the continuum of long-term care programs and services. In 1975, those services were limited to institutional options of nursing and boarding home placement. In the ensuing years, the committee has taken the lead along with others in advocating for the development of alternatives to institutionalization for Maine's older citizens. This advocacy has resulted in the development of a continuum of alternative long-term care services ranging from supportive services in the home to nursing home placement with many options in between for Maine's at risk elderly. The bill enables the ombudsman program to respond to the concerns and complaints of consumers of home care in a variety of areas, including eligibility for public benefit programs, questions regarding appropriateness of care and general advocacy in dealing with providers of care.

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