

HOUSE BILL No. 1117

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-11-13.

Synopsis: Developmental disabilities ombudsman. Establishes a statewide waiver ombudsman program for individuals with waivers under the federal home and community based services program. Requires the division of disability, aging, and rehabilitative services to administer the ombudsman program. Authorizes the ombudsman to intervene on behalf of customers of waiver services. Makes certain actions that impede the ombudsman's investigation a Class B misdemeanor. (The introduced version of this bill was prepared by the Indiana commission on mental retardation and developmental disabilities.)

Effective: July 1, 1999.

Klinker

January 6, 1999, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1117

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-11-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:

4 **Chapter 13. Statewide Waiver Ombudsman Program**
5 **Sec. 1. This chapter applies only to an individual who has a**
6 **developmental disability and who receives services under an**
7 **intermediate care facility for the mentally retarded (ICF/MR)**
8 **waiver, an autism waiver, or a medically fragile children waiver**
9 **under the federal home and community based services program.**
10 **Sec. 2. As used in this chapter, "ombudsman" refers to the**
11 **statewide waiver ombudsman program established by section 3 of**
12 **this chapter. The term includes individuals approved to act in the**
13 **capacity of ombudsmen by the statewide waiver ombudsmen office.**
14 **Sec. 3. The statewide waiver ombudsman program is**
15 **established. The program shall be administered by the division.**
16 **Sec. 4. The director shall appoint an acting ombudsman within**
17 **thirty (30) days of a vacancy in the position of the ombudsman. The**



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1 acting ombudsman has the powers and duties of the ombudsman.

2 **Sec. 5.** The ombudsman may employ technical experts and other
3 employees to carry out the purposes of the office.

4 **Sec. 6. (a)** The ombudsman shall receive, investigate, and
5 attempt to resolve complaints and concerns that are made by or on
6 behalf of an individual who receives waiver services.

7 (b) At the conclusion of an investigation of a complaint, the
8 ombudsman shall report the ombudsman's findings to the
9 complainant.

10 (c) If the ombudsman does not investigate a complaint, the
11 ombudsman shall notify the complainant of the decision not to
12 investigate and the reasons for the decision.

13 **Sec. 7. (a)** An ombudsman shall be given appropriate access to
14 the records of an individual who receives waiver services and the
15 provider of waiver services.

16 (b) A state or local government agency or entity that has records
17 that are relevant to a complaint or an investigation conducted by
18 the ombudsman shall provide the ombudsman with access to the
19 records.

20 (c) A provider of waiver services or an employee of a provider
21 of waiver services is immune from:

- 22 (1) civil or criminal liability; and
23 (2) actions taken under a professional disciplinary procedure;
24 for the release or disclosure of records to the ombudsman under
25 this chapter.

26 **Sec. 8.** The ombudsman shall do the following:

27 (1) Promote effective coordination among the following:

28 (A) Programs that provide legal services for the
29 developmentally disabled.

30 (B) The division.

31 (C) Providers of waiver services.

32 (D) Providers of other necessary or appropriate services.

33 (2) Ensure that the identity of a complainant, resident, or
34 client will not be disclosed without:

35 (A) the complainant's, resident's, or client's written
36 consent; or

37 (B) a court order.

38 **Sec. 9.** The director of the division may adopt rules under
39 IC 4-22-2 necessary to carry out this chapter.

40 **Sec. 10.** The ombudsman is not civilly liable for the good faith
41 performance of official duties.

42 **Sec. 11. (a)** The ombudsman shall prepare a report each year on

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1 the operations of the program.
2 (b) A copy of the report shall be provided to the following:
3 (1) The governor.
4 (2) The general assembly.
5 (3) The division.
6 Sec. 12. A person who:
7 (1) intentionally prevents the work of the ombudsman;
8 (2) knowingly offers compensation to the ombudsman in an
9 effort to affect the outcome of an investigation or a potential
10 investigation; or
11 (3) knowingly or intentionally retaliates against a resident, a
12 client, an employee, or another person who files a complaint
13 or provides information to the ombudsman;
14 commits a Class B misdemeanor.

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