

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2065

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 50-10.1-02, 50-10.1-04, 50-10.1-05, and  
2 50-10.1-07 of the North Dakota Century Code, relating to appointment of state and local  
3 ombudsmen, ombudsmen access to facilities and records, posting information about the  
4 ombudsman program, and confidentiality of ombudsman records and files.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **50-10.1-02. Appointment of state and ~~regional~~local long-term care ombudsmen.**

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

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

14 **50-10.1-04. Access to facilities and records.**

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

- 17 1. Have ~~reasonable~~ access to all long-term care facilities within the state and shall have  
18 private access to any resident within any long-term care facility within the state.  
19 ~~Reasonable access is defined as access by an ombudsman during normal working~~  
20 ~~hours or by appointment and upon notification to the administrator or person in charge~~  
21 ~~of the facility.~~
- 22 2. Have access to all ~~personal~~social and medical records of ~~any~~a resident of a long-term  
23 care facility who has sought ombudsman services, or on whose behalf such services  
24 have been sought, ~~except that no record may be obtained without the written consent~~

1 of a resident or a legal representative of a resident, or unless a court orders the  
2 disclosure if:

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

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

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

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

13 **50-10.1-05. ~~Chapter~~Information to be posted - Retaliation prohibited.**

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

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

26 **50-10.1-07. Confidentiality and disclosure of records and files.**

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

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

Sixty-fourth  
Legislative Assembly

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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.