

## 2018 Kansas Statutes

### **75-7304. State long-term care ombudsman; office established; qualifications; appointment, senate confirmation; term of office; appointment of regional long-term care ombudsman, other officers and employees; prior office abolished.**

(a) On the effective date of this act, the office of the state long-term care ombudsman in existence on the day preceding such effective date is hereby abolished and there is hereby established the office of the state long-term care ombudsman, the head of which shall be the state long-term care ombudsman. In performance of the powers, duties and functions prescribed by law, the office shall be an independent state agency. The state long-term care ombudsman shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. The term of office of the first person appointed as the state long-term care ombudsman on or after the effective date of this act shall expire on January 15, 2000, and such state long-term care ombudsman shall serve until a successor is appointed and confirmed. Thereafter, each person appointed as the state long-term care ombudsman shall have a term of office of four years and shall serve until a successor is appointed and confirmed. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as state long-term care ombudsman shall exercise any power, duty or function as state long-term care ombudsman until confirmed by the senate.

(b) The state long-term care ombudsman shall appoint each regional long-term care ombudsman and all officers and employees of the office of state long-term care ombudsman. Each regional long-term care ombudsman and all such officers and employees shall be within the classified service under the Kansas civil service act.

(c) In accordance with the provisions of this act, the state long-term care ombudsman shall administer the office of the state long-term care ombudsman.

(d) No person shall be eligible to be appointed to, or to hold, the office of state long-term care ombudsman if such person is subject to a conflict of interest or has been employed by or participated in the management of a long-term care facility within the previous 12-month period of time. No person shall be eligible for appointment as the state long-term care ombudsman unless such person has:

- (1) A baccalaureate or higher degree from an accredited college or university;
- (2) demonstrated abilities to analyze problems of law, administration and public policy; and
- (3) experience in investigation, negotiation and conflict resolution procedures;
- (4) demonstrated expertise in long-term care services and supports or other direct services for older persons or individuals with disabilities; and
- (5) demonstrated expertise in leadership and program management skills.

(e) (1) On the effective date of this act, all of the powers, duties, functions, records and property of the office of the state long-term care ombudsman abolished by this section, which are prescribed for the office of the state long-term care ombudsman by this act, are hereby transferred to and conferred and imposed upon the office of the state long-term care ombudsman that is established by this section, except as is otherwise specifically provided by this act. On the effective date of this act, all of the powers, duties, functions, records and property of the secretary of aging or the department on aging, which relate to or are required for the performance of powers, duties or functions which are prescribed for the office of the state long-term care ombudsman or the state long-term care ombudsman by this act, including the power to expend funds now or hereafter made available in accordance with appropriation acts, are hereby transferred to and conferred and imposed upon the office of the state long-term care ombudsman and the state long-term care ombudsman that are established by this section, except as is otherwise specifically provided by this act.

(2) The office of the state long-term care ombudsman established by this section shall be the successor in every way to the powers, duties and functions of the office of the state long-term care ombudsman, the secretary of aging, or the department on aging in which such powers, duties and functions were vested prior to the effective date of this act, except as otherwise specifically provided by this act. Every act performed under the authority of the office of the state long-term care ombudsman established by this act shall be deemed to have the same force and effect as if performed by the office of the state long-term care ombudsman, the secretary of aging or the department on aging in which such powers, duties and functions were vested prior to the effective date of this act.

(3) Subject to the provisions of this act, whenever the office of the state long-term care ombudsman that is abolished by this act or the secretary on aging or the department on aging, or words of like effect, is referred to or designated by a statute, contract, or other document, and such reference or designation relates to a power, duty or function which is transferred to and conferred and imposed upon the office of the state long-term care ombudsman that is established by this act, such reference or designation shall be deemed to apply to the office of the state long-term care ombudsman established by this act.

(4) All policies, orders or directives of the office of the state long-term care ombudsman that is abolished by this act and all policies, orders or directives of the secretary of aging, which are in existence on the effective date of this act and which relate to powers, duties and functions that were vested in such office of the state long-term care ombudsman or the secretary of aging prior to such date, shall continue to be effective and shall be deemed to be the policies, orders or directives of the state long-term care ombudsman established by this act, until revised, amended or revoked or nullified pursuant to law. The office of the state long-term care ombudsman established by this act shall be deemed to be a continuation of the office of the state long-term care ombudsman abolished by this act.

(5) (A) The state long-term care ombudsman and the secretary of administration shall provide that all officers and employees of the department on aging, who are engaged in the exercise and performance of the powers, duties and functions of the programs of the office of the state long-term care ombudsman that are transferred by this act, are transferred to the office of the state long-term care ombudsman established by this section.

(B) Officers and employees of the department on aging transferred under this act shall retain all retirement benefits and leave rights which had accrued or vested prior to each date of transfer. The service of each officer or employee so transferred shall be deemed to be continuous. All transfers, layoffs and abolition of classified service positions under the Kansas civil service act which may result from program transfers under this act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department on aging prior to the date of transfer.

(C) If the state long-term care ombudsman and the secretary of aging cannot agree as to how any transfer of an officer or employee is to take place under this section, the state long-term care ombudsman and the secretary of administration shall be responsible for administering any layoff that is part of the transfer in accordance with this act.

(D) Notwithstanding the effective date of this act, the provisions of this act prescribing the transfer of officers and employees between the office of the state long-term care ombudsman established by this section and the department on aging, the date of transfer of each such officer or employee shall commence at the start of a

payroll period.

**History:** L. 1980, ch. 291, § 2; L. 1990, ch. 328, § 7; L. 1998, ch. 101, § 5; L. 2008, ch. 121, § 34; L. 2018, ch. 38, § 3; July 1.