

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN ASSEMBLY JULY 1, 2013

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 609

Introduced by Senator Wolk

February 22, 2013

An act to amend Sections 9714, 9714.5, and 9732 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 609, as amended, Wolk. Office of the State Long-Term Care Ombudsman.

Existing law, as part of the Mello-Granlund Older Californians Act, establishes the Office of the State Long-Term Care Ombudsman, under the direction of the State Long-Term Care Ombudsman, in the California Department of Aging. Existing law provides for the Long-Term Care Ombudsman Program under which funds are allocated to local ombudsman programs to assist elderly persons in long-term health care facilities and residential care facilities by, among other things, investigating and seeking to resolve complaints against these facilities. Existing law requires the office to solicit and receive funds, gifts, and contributions to support the operations and programs of the office.

This bill would create the Long-Term Care Ombudsman Program Improvement Act Account, and require the office to deposit those funds into the account. The bill would, upon appropriation, require those funds to be used for the purpose of supporting the operations and programs of the office.

Under existing law, anyone who willfully interferes with a lawful action of the office is subject to a civil penalty of no more than \$1,000, to be assessed by the Director of Aging, who is required to initiate the action, upon request of the office, to collect the penalties.

This bill would increase the maximum civil penalty amount to \$2,500 for each incident, and would instead require the director to initiate an action if the penalty is not paid within 30 days of the assessment. The bill would provide that each instance of willful interference may be reported to local law enforcement and the appropriate licensing agency as an act of isolation, as defined. This bill would create the Access to Facilities Account, and require those penalties to be deposited into the account to, upon appropriation by the Legislature, be available to the office, and require no less than 75% of that amount to be dedicated to fund the direct travel costs associated with local ombudsmen visits throughout the state or training of office to fund the training costs, and to reimburse the travel expenses, of local ombudsmen ombudsman programs throughout the state.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9714 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 9714. The office shall solicit and receive funds, gifts, and
- 4 contributions to support the operations and programs of the office.
- 5 The office shall not solicit or receive any funds, gifts, or
- 6 contributions if the solicitation or receipt would jeopardize the
- 7 independence and objectivity of the office. The office shall deposit
- 8 funds received pursuant to this section into the Long-Term Care
- 9 Ombudsman Program Improvement Act Account that is hereby
- 10 created in the Special Deposit Fund in the State Treasury pursuant
- 11 to Section 16370 of the Government Code. Revenues in this
- 12 account shall, upon appropriation, be used for the purpose of
- 13 supporting the operations and programs of the office.
- 14 SEC. 2. Section 9714.5 of the Welfare and Institutions Code
- 15 is amended to read:
- 16 9714.5. (a) The office may form a foundation eligible to
- 17 receive tax-deductible contributions to support the operations and
- 18 programs of the office and the operations of the foundation. The

1 foundation shall not solicit or receive any funds, gifts, or
2 contributions if the solicitation or receipt would jeopardize the
3 independence and objectivity of the office or foundation.

4 (b) The foundation formed pursuant to this section shall be under
5 the direction and management of a five-member board of directors.
6 One member shall be appointed by the Speaker of the Assembly,
7 one member shall be appointed by the Senate Committee on Rules,
8 and three members shall be appointed by the Governor. The
9 members of the board shall each be experienced in the
10 management, promotion, and funding of nonprofit charitable
11 organizations.

12 (c) The board shall select from among its members a chair, a
13 vice chair, and any other officers as it deems necessary.

14 (d) The members of the board shall serve without compensation,
15 but shall be reimbursed for all necessary expenses actually incurred
16 in the performance of their duties as directors.

17 (e) Three members of the board shall constitute a quorum for
18 the purpose of conducting the board's business.

19 (f) By March 1 of each year, the board shall determine the
20 amount of funds to be allocated from the foundation to the office
21 for the support of the operations and programs of the office and
22 the operations of the foundation. Foundation funds may only be
23 expended for the support of the operations and programs of the
24 office and the operations of the foundation.

25 (g) The members of the board shall be free from conflicts of
26 interest and shall be subject to the same conflict of interest
27 provisions that apply to the State Ombudsman under Section
28 3058g(f)(3) of Title 42 of the United States Code.

29 SEC. 3. Section 9732 of the Welfare and Institutions Code is
30 amended to read:

31 9732. (a) Any person who willfully interferes with any lawful
32 action of the office shall be subject to a civil penalty of no more
33 than two thousand five hundred dollars (\$2,500) for each incident.
34 The civil penalty shall be assessed by the director. If the penalty
35 is not paid within 30 days of the assessment, the director shall
36 initiate an action to collect the penalties in the jurisdiction in which
37 the facility is located.

38 (b) Each instance of willful interference may be reported to
39 local law enforcement and the appropriate licensing agency as an
40 act of isolation, as defined in Section 15610.43.

1 (c) All civil penalties collected by the department pursuant to
2 this section shall be deposited into the Access to Facilities Account,
3 which is hereby created within the Special Deposit Fund under
4 Section 16370 of the Government Code. Funds in this account
5 shall be available, upon appropriation, to the office, and no less
6 than 75 percent of the penalties collected shall be dedicated to fund
7 the direct travel costs associated with local ombudsmen visits
8 throughout the state or training of local ombudsmen throughout
9 the state office to fund the training costs, and to reimburse the
10 travel expenses, of local ombudsman programs throughout the
11 state.

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