

HB0378S01 compared with HB0378

~~{deleted text}~~ shows text that was in HB0378 but was deleted in HB0378S01.

inserted text shows text that was not in HB0378 but was inserted into HB0378S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jennifer Dailey-Provost proposes the following substitute bill:

DISABILITY ACT COMPLIANCE ~~{REQUIREMENTS}~~ AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer ~~{Dailey-Provost}~~ Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{creates the Disability Ombudsman Program}~~ requires the Department of Human Services to identify barriers an individual with a disability experiences in obtaining services and provide a report to the Legislature.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ ~~{creates}~~ requires the ~~{Disability Ombudsman Program within the Division of Services for People with Disabilities;~~

→ ~~creates the powers and duties of the disability ombudsman;~~

→ ~~outlines procedures for the investigation of a complaint received by the disability ombudsman; and~~

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— requires the ~~Department of Human Services~~ to:

- identify barriers an individual with a disability experiences in obtaining access to services; and
- provide a report to the Health and Human Services Interim Committee regarding a proposal for a disability ombudsman ~~{to keep certain materials relating to a complaint or investigation confidential}~~ program to address the barriers.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

631-2-262, as last amended by Laws of Utah 2019, Chapters 136 and 440

ENACTS:

~~{62A-5-501, Utah Code Annotated 1953~~

~~62A-5-502, Utah Code Annotated 1953~~

~~62A-5-503, Utah Code Annotated 1953~~

~~62A-5-504, Utah Code Annotated 1953~~

~~62A-5-505}~~ 62A-5-111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{62A-5-501}~~ 62A-5-111 is enacted to read:

~~{Part 5. Disability Ombudsman Program~~

~~62A-5-501. Definitions:~~

~~As used in this part:~~

~~(1) "Complaint" means a complaint initiated with the ombudsman identifying a party who has violated the rights and privileges of an individual with a disability.~~

~~(2) "Complainant" means a person who initiates a complaint.~~

~~(3) "Disability" means the same as that term is defined in 42 U.S.C. 12102 of the Americans With Disabilities Act of 1990, and 28 C.F.R. 36.105 of the Code of Federal~~

~~Regulations.~~

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~~(4) "Ombudsman" means the ombudsman appointed under Section 62A-5-502.~~

~~(5) "Ombudsman" 62A-5-111. Disability ombudsman program~~ means the Disability Ombudsman Program created in Section 62A-5-502.

~~(6) "Rights" -- Report.~~

(1) As used in this section, "rights and privileges of an individual with a disability" means the rights and privileges of an individual with a disability described in:

(a) Subsections 62A-5b-103(1) through (3); ~~and~~

(b) 42 U.S.C. 12181 through 12189 of the Americans with Disabilities Act of 1990;

or

(c) 28 C.F.R. Part 36 of the Code of Federal Regulations.

(2) The department shall:

(a) identify and evaluate barriers an individual with a disability experiences in obtaining access to services in the community that are intended to protect the rights and privileges of an individual with a disability;

(b) determine the duties and role of an ombudsman program in protecting the rights and privileges of an individual with a disability and addressing the barriers identified in Subsection (2)(a);

(c) based on the information described in Subsections (2)(a) and (b), develop a proposal for an ombudsman program to promote and advocate for the rights and privileges of an individual with a disability; and

(d) before November 30, 2021, report to the Health and Human Services Interim Committee regarding the proposal described in Subsection (2)(c) and any recommendations for implementation of the proposal.

(3) In developing the proposal described in Subsection (2)(c), the department shall:

(a) review statutes, policies, and programs in other states relating to an ombudsman who provides services to an individual with a disability; and

(b) consult with:

(i) the Department of Health; and

(ii) other stakeholders, as determined by the department.

Section 2. Section ~~{62A-5-502}~~631-2-262 is ~~{enacted}~~amended to read:

~~{~~62A-5-502. Disability Ombudsman Program -- Creation -- Appointment of

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ombudsman:

~~—— (1) There is created within the division the "Disability Ombudsman Program" for the purpose of promoting and advocating for the rights and privileges of an individual with a disability and ensuring that the rights and privileges of an individual with a disability are upheld:~~

~~—— (2) The director shall appoint an ombudsman to administer the ombudsman program.~~

~~—— (3) In administering the ombudsman program, the ombudsman shall:~~

~~—— (a) provide information regarding the role and duties of the ombudsman to individuals and community partners in the state;~~

~~—— (b) provide information to private citizens, civic groups, government entities, and other interested parties in the state about the rights and privileges of an individual with a disability;~~

~~—— (c) develop a website to provide the information described in Subsections (3)(a) and (b) in a form that is easily accessible;~~

~~—— (d) receive and process complaints; and~~

~~—— (e) conduct investigations and provide reports and referrals in accordance with this part.~~

~~—— Section 3. Section 62A-5-503 is enacted to read:~~

~~—— **62A-5-503. Powers and duties of ombudsman.**~~

~~—— (1) The ombudsman shall:~~

~~—— (a) develop and maintain expertise in federal and state laws and policies governing rights and privileges of an individual with a disability;~~

~~—— (b) establish procedures for and engage in:~~

~~—— (i) receiving and processing a complaint;~~

~~—— (ii) conducting an investigation in accordance with Section 62A-5-504;~~

~~—— (iii) developing a report of findings of an investigation; and~~

~~—— (iv) assisting a complainant to resolve the complaint, including referring the complainant to a governmental entity or another individual or entity that has the capacity to resolve the complaint; and~~

~~—— (c) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under Subsection (1)(b):~~

~~—— (2) The ombudsman may:~~

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~~— (a) recommend rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the purposes of the ombudsman program; and~~

~~— (b) within appropriations from the Legislature, employ staff as may be necessary to carry out the purposes of the ombudsman program and the ombudsman's duties under this part.~~

~~— Section 4. Section 62A-5-504 is enacted to read:~~

~~— **62A-5-504. Investigation of complaints -- Procedures.**~~

~~— (1) The ombudsman shall investigate each complaint the ombudsman receives.~~

~~— (2) An investigation may include:~~

~~— (a) collecting facts and information over the telephone;~~

~~— (b) holding investigatory hearings; and~~

~~— (c) inspecting the premises of the party named in the complaint.~~

~~— (3) In conducting an investigation, the ombudsman may engage in actions the ombudsman considers appropriate, including:~~

~~— (a) making inquiries and obtaining information and documentation; and~~

~~— (b) entering and inspecting the premises of the party that is named in the complaint without notice to the party, if the ombudsman, or the ombudsman's designee, presents identification as an individual authorized by this part to inspect the premises upon entering the premises.~~

~~— Section 5. Section 62A-5-505 is enacted to read:~~

~~— **62A-5-505. Confidentiality of materials relating to complaints or investigations.**~~

~~— (1) The ombudsman shall establish procedures to ensure that all materials maintained by the ombudsman program relating to a complaint or an investigation under Section 62A-5-504 are disclosed only at the discretion of and under the authority of the ombudsman.~~

~~— (2) The identity of a complainant or a party named in a complaint may not be disclosed by the ombudsman unless:~~

~~— (a) the complainant consents to the disclosure;~~

~~— (b) disclosure is ordered by the court; or~~

~~— (c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the complainant, to an agency or entity in the community that:~~

~~— (i) has statutory responsibility for the complainant;~~

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~~(ii) has statutory responsibility over the action alleged in the complaint or other party named in the complaint;~~

~~(iii) is able to assist the ombudsman to resolve the complaint; or~~

~~(iv) is able to provide expertise that would benefit the complainant.~~

‡ **63I-2-262. Repeal dates -- Title 62A.**

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

(2) Section 62A-5-111 is repealed January 1, 2021.