

# HOUSE BILL NO. 5221

November 07, 2019, Introduced by Reps. Hood, Koleszar, Sabo, Hoadley, Sowerby, Lasinski, Chirkun, Cherry, Manoogian, Ellison, Clemente, Hope, Tate, Warren, Anthony, Stone, Haadsma, Shannon, Brixie, Hertel, Kennedy, Sneller, Pohutsky, Bolden, Tyrone Carter, Hammoud, Yaroach, Whitsett, Jones and Coleman and referred to the Committee on Military, Veterans and Homeland Security.

A bill to amend 2016 PA 198, entitled

"An act to create the office of the Michigan veterans' facility ombudsman; and to prescribe the powers and duties of the office, the ombudsman, the legislative council, and the department of military and veterans affairs,"

by amending sections 1, 4, 6, 7, 10, 12, and 13 (MCL 4.771, 4.774, 4.776, 4.777, 4.780, 4.782, and 4.783), section 1 as amended by 2018 PA 395.



RMW



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**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Administrative act" includes an action, omission,  
3       decision, recommendation, practice, or other procedure of the  
4       department.

5       (b) "Complainant" means a resident veteran, family member of a  
6       resident veteran, legal guardian or individual with power of  
7       attorney for a resident veteran, or legislator who files a  
8       complaint under section ~~4-4(1)~~ **or a report of abuse, neglect, or**  
9       **exploitation under section 4(2).** Complainant includes an individual  
10      **who makes a report of abuse to the department of health and human**  
11      **services under section 11a of the social welfare act, 1939 PA 280,**  
12      **MCL 400.11a.**

13      (c) "Council" means the legislative council established under  
14      section 15 of article IV of the state constitution of 1963.

15      (d) "Department" means the department of military and veterans  
16      affairs.

17      (e) "Legislator" means a member of the senate or the house of  
18      representatives of this state.

19      (f) "Michigan veterans' facility" or "facility" means a  
20      Michigan veterans' facility established under 1885 PA 152, MCL 36.1  
21      to 36.12, ~~or any other facility for the care of veterans that is~~  
22      ~~constructed or established by this state after the effective date~~  
23      ~~of the amendatory act that amended this subdivision.~~ **or a veterans'**  
24      **facility as that term is defined in section 2 of the Michigan**  
25      **veterans' facility authority act, 2016 PA 560, MCL 36.102.**

26      (g) "Office" means the office of the Michigan veterans'  
27      facility ombudsman created under this act.

28      (h) "Ombudsman" means the Michigan veterans' facility



1 ombudsman.

2 (i) "Report of abuse" means a report received by the ombudsman  
3 from a complainant or the department of health and human services  
4 concerning abuse, neglect, or exploitation, as those terms are  
5 defined in section 11 of the social welfare act, 1939 PA 280, MCL  
6 400.11, of an adult residing in a facility.

7 (j) ~~(i)~~ "Resident veteran" means a veteran who is a resident  
8 of a Michigan veterans' facility or an individual who is a resident  
9 of a Michigan veterans' facility by virtue of the individual's  
10 relationship with a veteran.

11 (k) ~~(j)~~ "Veteran" means that term as defined in section 2a of  
12 1885 PA 152, MCL 36.2a.

13 Sec. 4. (1) The ombudsman may commence an investigation upon  
14 his or her own initiative or upon receipt of a complaint from a  
15 complainant concerning an administrative act, medical treatment of  
16 a resident veteran, or a condition existing at a facility that  
17 poses a significant health or safety issue for which there is no  
18 effective administrative remedy or is alleged to be contrary to law  
19 or departmental policy. ~~The ombudsman may interview any of the~~  
20 ~~following individuals whom the ombudsman considers necessary in an~~  
21 ~~investigation:~~

22 ~~(a) An individual employed by or retained under contract by~~  
23 ~~the department.~~

24 ~~(b) An individual employed by or retained under contract by a~~  
25 ~~private contractor that operates a facility that houses resident~~  
26 ~~veterans.~~

27 (2) The ombudsman shall immediately commence an investigation  
28 upon receipt of a report of abuse from a complainant or the  
29 department of health and human services. If the report of abuse is



1 received from the department of health and human services, the  
2 ombudsman shall coordinate his or her investigation with an  
3 investigation undertaken by the department of health and human  
4 services concerning that report.

5 (3) The ombudsman may interview any of the following  
6 individuals whom the ombudsman considers necessary in an  
7 investigation:

8 (a) An individual employed by or retained under contract by  
9 the department.

10 (b) An individual employed by or retained under contract by a  
11 private contractor that operates a facility that houses resident  
12 veterans.

13 (4) ~~(2)~~—Subject to approval of the council, the ombudsman  
14 shall establish procedures for receiving and processing complaints  
15 under subsection (1) or a report of abuse under subsection (2),  
16 conducting investigations, holding hearings, and reporting the  
17 findings resulting from the investigations.

18 (5) A representative from the office of the Michigan veterans'  
19 facility ombudsman shall meet with a representative from the  
20 department and the department of health and human services to  
21 develop a model protocol that is based on the state model protocol  
22 developed under section 11b(9) of the social welfare act, 1939 PA  
23 280, MCL 400.11b, for the investigation of a report of abuse. This  
24 model protocol must be developed not more than 1 year after the  
25 effective date of the amendatory act that added this subsection.

26 Sec. 6. (1) The ombudsman shall advise a complainant to pursue  
27 all administrative remedies available to the complainant. The  
28 ombudsman may request and shall receive from the department or from  
29 a facility a progress report concerning the administrative



1 processing of a complaint. After administrative action on a  
2 complaint, the ombudsman may conduct further investigation on the  
3 request of a complainant or on his or her own initiative.

4 (2) ~~The~~ **Except in the case of a report of abuse, the** ombudsman  
5 is not required to conduct an investigation or hold a hearing on a  
6 complaint brought before the ombudsman.

7 Sec. 7. **(1)** Upon receiving a complaint under section 4-4**(1)**  
8 and deciding to investigate the complaint, within 10 business days  
9 the ombudsman shall notify the complainant, the resident veteran or  
10 resident veterans affected, and the department. If the ombudsman  
11 declines to investigate, the ombudsman shall notify the complainant  
12 within 10 business days, in writing, and inform the resident  
13 veteran or resident veterans affected of the reasons for the  
14 ombudsman's decision.

15 (2) **Upon receiving a report of abuse and commencing an**  
16 **investigation under section 4(2), the ombudsman shall notify the**  
17 **complainant, the resident veteran or resident veterans affected,**  
18 **the department, and the department of health and human services**  
19 **within 24 hours that he or she commenced an investigation.**

20 Sec. 10. (1) The ombudsman shall prepare and submit a report  
21 of the findings of an investigation and make recommendations to the  
22 council within 10 business days after completing the investigation  
23 if the ombudsman finds any of the following:

- 24 (a) A matter that should be considered by the department.  
25 (b) An administrative act that should be modified or canceled.  
26 (c) A statute or rule that should be altered.  
27 (d) Administrative acts for which justification is necessary.  
28 (e) Significant resident veteran health and safety issues.  
29 (f) **A report of abuse that has merit.**



(g) ~~(f)~~ Any other significant concerns.

(2) Subject to section 11, the council shall forward the report prepared and submitted under this section to the department, the resident veteran or resident veterans affected, and to the complainant who requested the report. **If the report concerns a report of abuse received from the department of health and human services, the council shall forward the report to the department of health and human services in addition to the parties listed in this subsection.**

Sec. 12. The ombudsman shall submit to the council, the board of managers, and the legislature a semiannual report on the conduct of the office. A report under this section ~~shall~~**must** include all of the following information for each Michigan veterans' facility during the preceding 6 months, at a minimum:

(a) The number of complaints received.

(b) The number of complaints concerning each of the following categories:

(i) The modification or cancellation of, or justification for, an administrative act.

(ii) A statute or rule.

(iii) Significant veteran health issues.

(iv) Significant veteran safety issues.

**(v) A report of abuse.**

(c) The number of complaints resulting in the initiation of an investigation.

(d) The number of investigations initiated by the ombudsman.

(e) The number of hearings.

(f) The number of reports of findings issued.

Sec. 13. (1) A resident veteran shall not be penalized in any



1 way by a person or facility or the department as a result of filing  
2 a complaint **or submitting a report of abuse**, communicating a  
3 complaint **or a report of abuse** to a legislator, or cooperating with  
4 the ombudsman in investigating a complaint **or a report of abuse**.

5 (2) A person or facility or the department shall not hinder  
6 the lawful actions of the ombudsman or employees of the office or  
7 willfully refuse to comply with any lawful demand of the office.

8 Enacting section 1. This amendatory act does not take effect  
9 unless all of the following bills of the 100th Legislature are  
10 enacted into law:

11 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5219 (request no.  
12 04816'19).

13 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5220 (request no.  
14 04816'19 a).

