

OLDER MICHIGANIANS ACT
Act 180 of 1981

AN ACT to create a commission on services to the aging within the executive office of the governor; to create an office of services to the aging as an autonomous entity within the department of management and budget; to authorize the designation of area agencies on services to the aging and to prescribe their powers and duties; to establish certain programs relating to older persons; to prescribe the powers and duties of certain state departments, officers, and agencies; to create funds; to provide penalties; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1986, Act 259, Imd. Eff. Dec. 9, 1986;—Am. 1987, Act 35, Imd. Eff. May 27, 1987;—Am. 1988, Act 235, Eff. Oct. 7, 1988.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

The People of the State of Michigan enact:

400.581 Short title.

Sec. 1. This act shall be known and may be cited as the "older Michiganians act".

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the department of management and budget to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.582 Definitions.

Sec. 2. As used in this act:

- (a) "Area agency on aging" means an agency designated by the commission under section 4(i).
- (b) "Chief elected official administrative officer" means any of the following:
 - (i) The president of a village.
 - (ii) The mayor of a city.
 - (iii) The supervisor of a township.
 - (iv) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the chairperson of the county board of commissioners of the county.
- (c) "Commission" means the commission on services to the aging established under section 3.
- (d) "Director" means the director of the office of services to the aging.
- (e) "Long-term care facility" means 1 or more of the following:
 - (i) A home for the aged as defined in section 20106(3) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.
 - (ii) An adult foster care facility as defined in section 3(4) of the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being section 400.703 of the Michigan Compiled Laws.
 - (iii) A nursing home as defined in section 20109(1) of Act No. 368 of the Public Acts of 1978, being section 333.20109 of the Michigan Compiled Laws.
 - (iv) A county medical care facility as defined in section 20104(4) of Act No. 368 of the Public Acts of 1978, being section 333.20104 of the Michigan Compiled Laws.
 - (v) A hospital long-term care unit as defined in section 20106(6) of Act No. 368 of the Public Acts of 1978.
- (f) "Office" means the office of services to the aging created by section 5.
- (g) "Older person" means a state resident who is 60 years of age or older, and the spouse of the older person, regardless of age.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.583 Commission on services to the aging; establishment; appointment, qualifications, and term of members; vacancies; members of commission created by former act; compensation and expenses; chairperson.

Sec. 3. (1) A commission on services to the aging is established within the executive office of the governor. The commission shall consist of 15 members appointed by the governor by and with the advice and consent of the senate. Commission membership shall reflect the broad geographical balance as well as the distribution of older persons in the state. Members of the commission shall serve the broad interests of the state's aging and older persons. A majority of the members shall be 60 years of age or older, and no more than 8 members shall be from the same political party. The term of each member shall be 3 years. Vacancies on the commission shall be filled by appointment by the governor in a similar manner as members are appointed under this subsection, for the remainder of the unexpired term.

(2) Members of the commission created by former Act No. 146 of the Public Acts of 1975 shall continue to serve until the expiration of their terms.

(3) A member of the commission shall be entitled to receive per diem compensation and reimbursement of actual and necessary expenses while acting as an official representative of the commission as defined by commission policies and rules. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(4) The governor shall designate a person from among the members to serve as chairperson of the commission. The chairperson shall serve in that position at the pleasure of the governor.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: Act 146 of 1975, referred to in this section, was repealed by Act 180 of 1980.

For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.584 Duties of commission.

Sec. 4. (1) The commission shall do all of the following:

- (a) Serve as an effective and visible advocate for aging and older persons in all government decisions.
- (b) Advise the governor, the legislature, and the office of services to the aging concerning the coordination and administration of state programs serving older persons.
- (c) Make recommendations to the governor and the legislature regarding changes in federal and state programs, statutes, and policies.
- (d) Advise the governor and legislature of the nature and magnitude of the priorities of aging and older persons.
- (e) Participate in the preparation of and approve the state plan and budget required by the older Americans act of 1965, 42 U.S.C. 3001 to 3058d, before submission of the plan to the federal administration on aging.
- (f) Review and approve grants to be made from state, federal, or other funds which are administered by the office.
- (g) Review and advise the governor and the legislature on the state's policies concerning services to older persons.
- (h) Participate in the development of and approve the statements and reports required in section 6(n).
- (i) Designate planning and service areas and an agency which shall be recognized as an area agency on services to the aging within each planning and service area.
- (j) Establish a state advisory council under the direction of the commission. A member of the commission shall chair the state advisory council. The commission shall establish procedures for the selection of the council.
- (k) Convene public meetings or hearings to identify and discuss issues or concerns relating to aging and older persons.
- (l) Establish additional specialized advisory committees as needed which shall be under the direction of the commission.
- (m) Provide adequate and effective opportunities for aging and older persons to express their views on policy development and program implementation.
- (n) Establish policies pertaining to implementation of federal and state statutes involving funds administered by the office.
- (o) Establish a formula for funding the state and local or regional long-term care ombudsman programs.

This formula shall be based on square miles, number of nursing homes, the number of nursing home beds, and the percentage of nursing home residents receiving medicaid within the geographic area to be served.

(2) The commission shall make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, subject to all of the following limitations:

(a) A commission member shall not participate in the selection, award, or administration of a contract if, to his or her knowledge, any of the following persons or organizations has a financial interest in that contract:

(i) A commission member.

(ii) A member of a commission member's immediate family.

(iii) A commission member's partner.

(iv) An organization in which any of the persons listed in subparagraphs (i) to (iii) is an officer, director, or employee.

(v) A person or organization with whom any of the persons listed in subparagraphs (i) to (iii) is negotiating or has any arrangement concerning prospective employment.

(b) A commission member shall make known a potential conflict of interest under subdivision (a) before a vote regarding a contract.

(c) A commission member shall abstain from discussing a relevant motion, making a recommendation, or voting in regard to a contract, grant, or policy if his or her personal or business interest is involved as described in subdivision (a).

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

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400.585 Office of services to the aging; creation; exercise of powers and functions; appointment of director; exemption; compensation; director as special assistant to governor and liaison to commission.

Sec. 5. The office of services to the aging is created within the department of management and budget. The office shall exercise its powers and functions, including the functions of budgeting and procurement and management-related functions, as an autonomous entity, independent of the director of the department of management and budget. The governor shall appoint a director of the office by and with the advice and consent of the senate. The director shall be exempt from the state classified civil service. The director shall receive compensation as provided by the legislature. The director shall serve as a special assistant to the governor on the problems of aging and older persons. The director or a designee of the director shall serve as office liaison to the commission.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of powers and duties of director of office of services to the aging to the executive director of the aging and adult services agency, and abolishment of the position of director of office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586 Office of services to the aging; duties.

Sec. 6. The office of services to the aging shall do all of the following:

(a) Serve as a visible and effective advocate for aging and older persons.

(b) Function as the single state agency within this state to supervise and administer the state plan required by the older Americans act of 1965, 42 USC 3001 to 3058ff.

(c) Be primarily responsible for the coordination of all state activities related to the purposes of this act.

(d) Cooperate with agencies of the state and federal government and receive funds for any purpose authorized by the legislature.

(e) Make necessary contracts incidental to the performance of its duties and the execution of its policies.

(f) Provide technical assistance to state and local agencies for the purposes of planning, program development, administration, and evaluation; and encourage, promote, and aid in the establishment of services for aging and older persons.

(g) Collect, analyze, and disseminate data concerning services which affect aging and older persons.

(h) Establish an educational and public information program to foster public understanding of the problems and opportunities of aging and older persons; provide information on programs available to assist older persons; and encourage the development of private and public community programs to improve the status of older persons.

(i) Evaluate the effect of federal and state statutes on aging and older persons and recommend to the governor and the legislature appropriate changes.

(j) Evaluate, in cooperation with appropriate state departments and agencies, the effectiveness of public and private policies that affect older persons in the state and that are funded by federal, state, local, and private resources, including services that provide a comprehensive and integrated system of health and social services that respond to individual needs.

(k) Supervise, monitor, assess, evaluate, and provide technical assistance to area agencies on aging, and other agencies receiving funds from the office, in meeting specified objectives.

(l) Make recommendations to the governor and the legislature on budget and grant requests for programs for aging and older persons.

(m) Participate in the development of the annual report of services that is required to be submitted to the department of health and human services under section 2004 of Title XX of the social security act, 42 USC 1397c, and provide recommendations to the governor on the components of the plan that relate to services to aging and older persons.

(n) Develop a comprehensive triennial state plan on aging with yearly updates regarding the priority needs of aging and older persons, as well as recommendations for future action. The office shall prepare an annual report to be submitted to the governor and the legislature by January 31 of each year. The annual report shall detail the progress of the office and the commission in implementing the triennial plan.

(o) Establish an appeals procedure, subject to approval by the commission, the applicability of which shall not be limited to denials of funding.

(p) Serve as a clearinghouse for the collection and distribution of information on aging and older persons.

(q) Establish demonstration programs for services to the aging and older persons in selected communities in the state. Particular emphasis shall be given to services designed to foster continued participation of older persons in family and community life and to prevent as nearly as possible unnecessary institutionalization of older persons. The programs shall be established to demonstrate and test their effectiveness, to stimulate continued support for them, and to create new services, using federal, state, local, or private funds and resources.

(r) Function as the state agency for voluntary services for, and provided by, older persons. The office shall do all of the following:

(i) Be designated as the state agency for coordination and development of foster grandparent and senior companion programs. The office is authorized: to receive and allocate funds from federal, state, and other sources for foster grandparent and senior companion programs; to negotiate waivers with the federal agency responsible for administering foster grandparent and senior companion programs and funds; and, in cases where federal foster grandparent and senior companion programs cannot be modified, to institute policies and rule variations with subprograms of foster grandparent and senior companion programs distinctly established through the use of state funds. Administrative agencies established before October 6, 1976, to develop and administer foster grandparent and senior companion programs are continued under this act according to contracts initiated with the federal government. This subparagraph does not prohibit the termination of a grantee for cause. Expansion of foster grandparent and senior companion programs shall be administered under existing programs where feasible. Other state and local governmental agencies serving children, youth, and developmentally disabled persons in need of protective care and treatment in institutional and community settings shall cooperate with the office in the development and administration of voluntary services for, and provided by, aging and older persons. The office may negotiate with the federal administration to obtain the same nontaxable status for state funded foster grandparent and senior companion stipends as that given to participants in the federal program.

(ii) Be designated as the state agency for coordination and development of retired senior volunteer programs. The office is authorized: to receive and allocate funds from federal, state, and other sources for retired senior volunteer programs; to negotiate waiver of rules with the federal agency responsible for administering retired senior volunteer programs and funds; and, in cases where federal retired senior volunteer programs cannot be modified, to institute policies and rule variations with subprograms of retired senior volunteer programs distinctly established through the use of state funds. Administrative agencies established before October 1, 1978, to develop and administer retired senior volunteer programs are continued under this act according to contracts initiated with the federal government. Nothing in this subparagraph prohibits the termination of a grantee for cause. Expansion of retired senior volunteer programs shall be administered under

existing programs where feasible. Other state and local governmental agencies shall cooperate with the office in the development and administration of voluntary services for, and provided by, aging and older persons.

(s) Establish, evaluate, and improve opportunities for aging and older persons to provide volunteer services.

(t) Pursue and receive on behalf of the state any grant or gift and accept any grant or gift so that the title passes to the state. All grants and gifts shall be deposited with the state treasurer and used for the purposes set forth in the grant or the gift if the purposes are within the powers conferred on the office and the use is approved by the legislature. If the use is not approved, the grant or gift shall revert to the donor, or the donor's administrator or assigns.

(u) Train and assign staff who shall institute food delivery systems, inform older persons of the delivery systems, and train older persons to operate the food delivery systems. The office shall also do all of the following:

(i) Develop means to reduce the cost of food to older persons and increase the nutritional adequacy of food purchased and consumed.

(ii) Provide technical assistance to local clubs, groups, or organizations of older persons for the development of buying clubs, food cooperatives, or shopping assistance programs; provide education in purchase and preparation of foods; and encourage retail grocers to package raw food in meal-size portions.

(iii) Provide ongoing assistance until the individual projects become self-sufficient.

(iv) Coordinate and develop efforts in conjunction with those of other state or local public or private agencies such as the cooperative extension services, public health agencies, senior nutrition projects, the department of human services, the retail grocers association, the department of agriculture and rural development, and others considered appropriate by the office.

(v) Provide in its annual report to the governor and the legislature under subdivision (n), a report on the effect of the programs.

(vi) Provide trained personnel, technical assistance, and coordination with other state agencies.

(v) Function as the administrator of employment programs and related services for, and provided by, older persons. The office shall encourage the employment of older persons in government agencies and private organizations.

(w) Subject to 1941 PA 370, MCL 38.401 to 38.428, and the rules of the state civil service commission, ensure that preference is given to older persons in employment by the office and all recipients of funds from the office.

(x) Encourage the development of preretirement and postretirement programs for older persons.

(y) Develop, in consultation with the various components of the aging network, basic core needs assessment and evaluation instruments. The office shall provide technical assistance to aid local organizations in augmenting these core instruments.

(z) Provide adequate and effective opportunities for older persons to express their views on policy development and program implementation.

(aa) Establish a long-term care ombudsman program consisting of a state long-term care ombudsman and a system of local or regional ombudsman offices having the duties and powers described in section 6g. The local or regional ombudsman programs shall be funded through area agencies on aging.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987;—Am. 2014, Act 78, Imd. Eff. Mar. 28, 2014.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

***** 400.586a THIS SECTION DOES NOT APPLY AFTER MARCH 29, 1988: See (3) of 400.586a *****

400.586a Older persons' shared housing program; establishment; duties of office; applicability of section.

Sec. 6a. (1) There is established an older persons' shared housing program to be administered by the office. The office may contract with private or public nonprofit agencies or local governmental agencies to establish shared housing for the older persons in local areas.

(2) In administering the older persons' shared housing program, the office shall do all of the following:

(a) Develop proposed model living arrangements in which 2 or more older persons share housing and the expenses of maintaining the housing.

(b) Develop 1 or more model shared housing agreements fixing the rights and responsibilities of older

persons who share housing.

(c) Communicate with landlords and housing rental businesses to encourage shared rental housing for older persons.

(d) Locate older persons who could benefit from living in shared housing arrangements, and identify areas in the state that have the greatest need for shared housing for older persons.

(e) Match older persons with homeowners, renters, or landlords and with other older persons to create shared housing arrangements.

(f) Identify impediments to the development of shared housing for older persons, including impediments resulting from zoning laws and ordinances; building, housing, and fire safety laws and ordinances; and rules, policies, and practices of state and local agencies.

(3) This section shall not apply after 3 years from its effective date.

History: Add. 1984, Act 357, Eff. Mar. 29, 1985.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

***** 400.586b THIS SECTION DOES NOT APPLY AFTER MARCH 29, 1987: See (2) of 400.586b *****

400.586b Report; applicability of section.

Sec. 6b. (1) Within 2 years after the effective date of this section, the office shall report to the house and senate committees having jurisdiction over legislation relating to older persons. The report shall include all of the following:

(a) A summary of the proposed model living arrangements described in section 6a.

(b) The model shared housing agreements described in section 6a.

(c) An estimate of the number of older persons in the state, by county or other region, who would benefit from continuation of the older persons' shared housing program.

(d) A description of the shared housing arrangements and the number of older persons placed in those shared housing arrangements since the effective date of this section.

(e) A summary of the impediments to the development of shared housing for older persons identified pursuant to section 6a.

(2) This section shall not apply after 2 years from its effective date.

History: Add. 1984, Act 357, Eff. Mar. 29, 1985.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586c Volunteer service credit program.

Sec. 6c. (1) The office may establish a program in 1 or more counties under which an older person, or a person of any age who is a member of an organization that is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 U.S.C. 501, may volunteer his or her time and services to an in-home service or volunteer agency that serves older persons and is approved by the office, and receive credit for providing volunteer respite services and other volunteer services. A volunteer shall not be credited with more than 10 hours of volunteer services for any week.

(2) A person who has earned volunteer service credit or a person who has had volunteer service credit designated to him or her and who needs to receive volunteer services, or whose spouse needs volunteer services, shall notify the office. If the office determines that the person needs volunteer services and is 60 years of age or older, or the person's spouse needs volunteer services and otherwise qualifies under this act, the office shall assist in arranging for the person or the person's spouse to receive those services from an in-home service or volunteer agency in the person's locality that participates in the service credit program. The receipt of volunteer services by a person who has earned volunteer service credit or who has had volunteer service credit designated to him or her shall not be based on financial need, but shall be based on the person's living situation and medical condition.

(3) In order to ensure the integrity of the service credit program, the office shall, to the extent possible, recruit and train a sufficient number of volunteers to assure their availability, on an emergency basis, to meet the needs of persons who have earned volunteer service credits under subsection (1) and who need to receive volunteer services. However, volunteer service credits have no cash value, and the state has no obligation to pay or reimburse any person for the value of his or her volunteer service credits under any circumstances.

History: Add. 1986, Act 247, Eff. Dec. 9, 1986;—Am. 1988, Act 235, Eff. Oct. 7, 1988.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

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400.586d-400.586f Repealed. 1988, Act 235, Eff. Apr. 1, 1990.

Compiler's note: The repealed sections pertained to computer-based volunteer skills bank, program sites, and grants to establish demonstration service credit programs.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586g State long-term care ombudsman; job qualifications; operation; duties; immunity from liability; rebuttable presumption.

Sec. 6g. (1) Job qualifications for the state long-term care ombudsman established pursuant to section 6(2)(aa) shall include, but not be limited to, experience in all of the following:

- (i) The field of aging.
- (ii) Health care.
- (iii) Working with community programs.
- (iv) Long-term care issues, both regulatory and policy.

(2) The state long-term care ombudsman may operate either directly or by contract with any public agency or other appropriate private nonprofit organization other than an agency or organization which is responsible for licensing or certifying long-term care facilities or which is an association of long-term care facilities.

(3) The state long-term care ombudsman shall do all of the following:

(a) Establish and implement confidential complaint, investigatory, informational, educational, and referral procedures and programs.

(b) Establish a statewide uniform reporting system to collect and analyze complaints about the health, safety, welfare, and rights of residents of long-term care facilities for the purpose of publicizing improvements and significant problems.

(c) Assist in the development of and monitor the implementation of state and federal laws, rules, and regulations concerning the delivery of services to older persons.

(d) Annually report to the governor and legislature on the long-term care ombudsman program and make recommendations for improving the health, safety, welfare, and rights of residents of long-term care facilities.

(e) Recommend changes in state and federal law, rules, regulations, policies, guidelines, practices, and procedures to improve the health, safety, welfare, and rights of residents of long-term care facilities.

(f) Cooperate with persons and public or private agencies and undertake or participate in conferences, inquiries, meetings, or studies which may lead to improvements in the health, safety, welfare, and rights of residents and the functioning of long-term care facilities.

(g) Widely publicize the long-term care ombudsman program.

(h) Provide training for local and regional long-term care ombudsmen, which shall include, but not be limited to, familiarity with all of the following:

- (i) Relevant state and federal regulatory and enforcement agencies.
- (ii) The common characteristics, conditions, and treatments of long-term care residents.
- (iii) Long-term care facility operations.
- (iv) Long-term care facility licensing and certification requirements.
- (v) Titles XVIII and XIX of the social security act, 42 U.S.C. 1395 to 1396s.
- (vi) Interviewing, investigating, mediation, and negotiation skills.
- (vii) Management of volunteer programs.

(i) Recommend that the attorney general institute actions for injunctive relief or civil damages relative to complaints.

(4) If acting in good faith and within the authority granted by this act, the state long-term care ombudsman is immune from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section. For purposes of any civil or criminal proceeding, there is a rebuttable presumption that when acting under the authority of this act, the state long-term care ombudsman does so in good faith.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging

from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586h Local or regional long-term care ombudsman programs; requirements.

Sec. 6h. The local or regional long-term care ombudsman programs established pursuant to section 6(2)(aa) shall do all of the following:

(a) Accept, investigate, verify, and work to resolve complaints, whether reported to or initiated by an ombudsman, relating to any action which may adversely affect the health, safety, welfare, and rights of a resident of a long-term care facility.

(b) Provide information about long-term care facilities, the rights of residents, sources of payment for care, and guidelines in selecting a long-term facility or other service to residents and the public.

(c) Make referrals to appropriate government and private agencies.

(d) Recruit, train, and supervise volunteers to assist ombudsmen in providing services.

(e) Educate residents and the public about abuse of long-term care residents and coordinate with licensing and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

(f) Assist in the development and work of resident councils when invited by residents or the long-term care facility. As used in this subdivision, "resident council" means a forum in which residents of long-term care facilities exercise their rights and communicate their views on the operations of a long-term care facility, the quality of care and life provided, and any other issue of interest to the council.

(g) Assist the state long-term care ombudsman in identifying needed regulatory changes in long-term care.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586i State, local, or regional long-term care ombudsman and trained volunteers; access to long-term care facility; purpose; time; "access" defined.

Sec. 6i. The state long-term care ombudsman, the local or regional long-term care ombudsmen, and their trained volunteers shall be granted access to any long-term care facility for the purpose of carrying out section 6h of this act. For the state long-term care ombudsman and the local or regional long-term care ombudsmen, access shall be allowed each day from 8 a.m. to 8 p.m. For ombudsman trained volunteers, access shall be allowed to nursing homes during regular visiting hours each day as required by section 20201(3)(b) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20201 of the Michigan Compiled Laws. For ombudsman trained volunteers, access shall be allowed to homes for the aged, hospital long-term care units, and adult foster care homes each day from 11 a.m. to 7 p.m. As used in this section, "access" means the right to do all of the following:

(a) Enter any facility and identify himself or herself.

(b) Seek consent from a resident to communicate privately and without restriction with that resident.

(c) Communicate privately and without restrictions with any resident who consents to communication.

(d) Observe all resident areas of the facility except the living area of any resident who protests the observation.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586j Retaliation or discrimination as misdemeanor; unlawful conduct; fine.

Sec. 6j. (1) A person who retaliates or discriminates against any of the following individuals due to that individual's registration of a complaint or assistance in the investigation of a complaint is guilty of a misdemeanor:

(a) An officer, employee, resident, or visitor to a long-term care facility.

(b) A family member or guardian of a resident in a long-term care facility.

(c) An ombudsman described by this act.

(d) A volunteer at a long-term care facility.

(2) A person who willfully does any of the following in connection with an ombudsman described by this act is subject to a fine of not more than \$1,500.00:

- (a) Hinders the work of an ombudsman or an ombudsman program.
- (b) Refuses to comply with a lawful request of an ombudsman.
- (c) Offers compensation or other promises to improperly influence the outcome of a matter being investigated by an ombudsman.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.586k Older persons' abuse prevention fund; establishment; administration; contributions; creation of older persons' abuse prevention project; duties of office; pilot programs; report; definition.

Sec. 6k. (1) There is established in the state treasury an older persons' abuse prevention fund, to be administered by the office. The fund shall consist of contributions of money from individuals, corporations, or other associations, and any money appropriated to the fund. No state general purpose or general fund money shall be appropriated to the fund.

(2) With the fund, the office shall create an older persons' abuse prevention project, for which the office shall do all of the following:

(a) Administer the older persons' abuse prevention fund for the purpose of implementing the older persons' abuse prevention project.

(b) Develop an older persons' abuse prevention program in cooperation with the department of social services, department of public health, department of mental health, department of state police, the office of substance abuse services, and representatives of local police agencies.

(c) Disseminate information about the aging process.

(d) Evaluate and approve proposals from community organizations for grants from the older persons' abuse prevention fund. Proposals may be submitted directly to the office or may be submitted to any area agency on aging, which shall forward the proposal to the office. A grant from the older persons' abuse prevention fund shall be for a purpose consistent with the older persons' abuse prevention program and shall be expended as determined by an interagency review panel, of which the director or the director's designee shall be the chairperson.

(3) If sufficient contributions have been made to the fund, the office shall develop and implement 2 pilot programs for purposes of this section. The pilot programs shall be established in cooperation with community organizations that provide services to older persons and that have adequate facilities, staff, and expertise to provide services for the prevention of the abuse of older persons. The pilot programs shall be implemented not later than 18 months after the effective date of this section. Not later than 2 years after the pilot programs are implemented, the office shall report to the legislature on the results of the pilot programs.

(4) As used in this section, "abuse of older persons" includes the following types of abuse involving an older person: physical abuse, emotional or social abuse, financial abuse, or environmental abuse.

History: Add. 1988, Act 235, Eff. Oct. 7, 1988.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

***** 400.586l.added THIS ADDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2021 REGULAR SESSION SINE DIE *****

400.586l.added Criminal background check; employees, subcontractors, and volunteers; use of information; maintenance of documents; retroactive applicability.

Sec. 6l. (1) Beginning October 1, 2020, each area agency on aging must conduct or cause to be conducted a criminal background check that reveals information similar or substantially similar to information found on an internet criminal history access tool (ICHAT) check and a national and state sex offender registry check for each new employee, employee, subcontractor, subcontractor employee, or volunteer who has in-person client contact, in-home client contact, access to a client's personal property, or access to confidential client information.

(2) A criminal background check for a new hire or new volunteer must be completed before the individual begins working directly with a client or has access to a client's personal property or confidential client

information.

(3) Each area agency on aging must update criminal background checks for all employees and volunteers every 3 years to identify a conviction in the event a conviction occurs while an individual is employed or providing volunteer service.

(4) An employee hired before or a volunteer who started volunteering before October 1, 2020 must be screened within 90 days after the effective date of the amendatory act that added this section, unless the area agency on aging has conducted a criminal background check on the employee or volunteer that meets the requirements of a criminal background check described in this section on or after October 1, 2020. After that, a criminal background check for each employee and volunteer must be completed no later than 30 days after every third anniversary from the date of his or her last background check.

(5) An updated criminal background check for each employee hired on or after or volunteer who started volunteering on or after October 1, 2020 must be completed no later than 30 days after every third anniversary of the employee's date of hire or volunteer's start date.

(6) Information obtained from a criminal background check shall only be used to determine suitability for employment or volunteer opportunities. Each area agency on aging is required to maintain a copy of the results of each criminal background check for paid and volunteer staff in a confidential and controlled access file. The information must not be used in violation of applicable federal or state equal employment opportunity law or regulation.

(7) An employee or volunteer must not be permitted to work directly with a client or have access to a client's personal property or confidential client information if 1 or more of the following apply:

(a) The results of the criminal background check show that the individual has a federal or state felony conviction related to 1 or more of the following crimes:

(i) A crime against a vulnerable adult as set forth in chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(ii) A violent crime including, but not limited to, murder, manslaughter, kidnapping, arson, assault, battery, or domestic violence.

(iii) A financial crime including, but not limited to, fraud, forgery, counterfeiting, embezzlement, or tax evasion.

(iv) A sex crime including, but not limited to, rape, sexual abuse, criminal sexual conduct, or prostitution.

(v) Cruelty or torture.

(vi) Abuse or neglect.

(vii) Felony involving the use of a firearm or dangerous weapon.

(b) The results of the criminal background check show that the individual has a federal or state felony conviction within the preceding 10 years from the date of the criminal background check, including, but not limited to, 1 or more of the following:

(i) A crime involving a state, federal, or local government assistance program.

(ii) A theft crime including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, or conversion.

(iii) A drug crime including, but not limited to, possession, delivery, or manufacturing.

(c) The results of the criminal background check show that the individual has a federal or state misdemeanor conviction within the preceding 5 years from the date of the criminal background check, including, but not limited to, 1 or more of the following:

(i) A crime involving a state, federal, or local government assistance program.

(ii) A crime against a vulnerable adult as set forth in chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(iii) A financial crime including, but not limited to, fraud, forgery, counterfeiting, embezzlement, or tax evasion.

(iv) A theft crime including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, or conversion.

(v) A sex crime including, but not limited to, rape, sexual abuse, criminal sexual conduct, or prostitution.

(vi) A drug crime including, but not limited to, possession, delivery, or manufacturing.

(vii) Cruelty or torture.

(viii) Abuse or neglect.

(ix) Home invasion.

(x) Assault or battery.

(xi) A misdemeanor involving using a firearm or dangerous weapon with intent to injure, using a firearm or dangerous weapon that results in a personal injury, or using force or violence or the threat of using force or violence.

(8) For the purposes of the excluded offenses identified in subsection (7), an individual is considered to have been convicted of a criminal offense if 1 of the following occurs:

(a) A judgment of conviction has been entered against the individual by a federal, state, tribal, or local court regardless of whether there is an appeal pending.

(b) There has been a finding of guilt against the individual by a federal, state, tribal, or local court.

(c) A plea of guilty or nolo contendere by the individual has been accepted by a federal, state, tribal, or local court.

(9) An arrest record alone does not disqualify an individual from employment with or volunteering at an area agency on aging.

(10) Each area agency on aging is required to maintain documentation of all criminal background checks, including a list of all paid and volunteer staff that are subject to this section, the date of the most recently completed criminal background check, and the source of the criminal background check. An employee hired before October 1, 2020 is not exempt from the requirements of this section.

History: Add. 2021, Act 28, Eff. (sine die).

Compiler's note: Enacting section 1 of Act 28 of 2021 provides:

"Enacting section 1. This amendatory act is intended to be retroactive and applies retroactively beginning October 1, 2020."

400.587 Office of services to the aging; interagency agreements.

Sec. 7. The office shall develop interagency agreements with departments or agencies providing services to older persons. The agreements shall specify methods of interagency planning and coordination of services. The agreements shall be renewed annually.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.587a State advisory council on mental health and aging; establishment; administration and operation; membership, duties, and operation.

Sec. 7a. The state advisory council on mental health and aging is jointly established in, and shall be administered and operated jointly by, the office of services to the aging and the department of mental health. The membership, duties, and operation of the state advisory council on mental health and aging shall be as provided in section 941 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1941 of the Michigan Compiled Laws.

History: Add. 1988, Act 437, Imd. Eff. Dec. 27, 1988.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.588 Conduct of commission business at public meeting; notice.

Sec. 8. (1) The business which the commission created pursuant to this act may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission, the office, or by an area agency created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.589 Agency designated as area agency on aging; powers and duties; source and use of

funds; advisory council.

Sec. 9. (1) An agency designated by the commission as an area agency on aging may be any of the following:

- (a) An established office on aging located within the region to be served by an area agency on aging.
- (b) An office or agency of a unit of local government that is designated for the purpose of serving as an area agency on aging by the chief elected official of that unit of government.
- (c) An office or agency designated by the appropriate chief elected officials of a combination of units of local government.
- (d) A public or nonprofit private agency, except a regional or local agency of the state, that is under the supervision or direction of the state agency.

(2) An area agency on aging designated by the commission is authorized to carry out the following duties and powers:

(a) Serve as an advocate for aging and older persons by representing their interests to public officials and public and private organizations within the planning and service area.

(b) Develop and administer an area plan for a comprehensive and coordinated service delivery system in the planning and service area, providing opportunities for older persons and service providers to express their views to the area agency on policy development and program implementation under the plan.

(c) Assess the kinds and levels of service needed by older persons in the planning and service area, and the effectiveness of other public and private programs serving those needs.

(d) Enter into subcontracts with local organizations for the direct provision of services to meet the priority needs of older persons identified in the plan.

(e) Coordinate and assist regional or local public and nonprofit agencies in the planning and development of programs to establish an areawide network of comprehensive, coordinated service and opportunities for older persons.

(f) Serve as an advocate for aging and older persons by assisting them in obtaining the benefits currently available under federal and state law and by representing their interests to public officials and public and private organizations within the planning and serving area.

(g) Receive information from the office and commission regarding legislation, regulation, and program and policy direction, and serve as the clearinghouse for dissemination of information from and to older persons and service providers within the planning and service area.

(h) Give priority in planning and administering services and programs to those older persons with the greatest economic and social need.

(i) Undertake other activities necessary to develop and administer the area plan in compliance with the policies, guidelines, or rules as set forth by federal or state statute and regulation, the commission, and the office.

(j) Provide adequate and effective opportunities for older persons to express their views on policy development and program implementation.

(3) An area agency on aging designated by the commission shall use funds distributed from the senior care respite fund created in section 9a to provide day care for older persons or other types of respite services for persons providing care to older persons. The area agency on aging may develop new programs or fund existing programs. Except where a waiver allowing direct service delivery is granted by the office, the area agency on aging shall award the distributed funds by grant or contract to community agencies and organizations for the provision of respite services. The area agency on aging may design respite programs to meet the needs of its constituents.

(4) Each area agency on aging shall have an advisory council, 1/2 of the membership of which shall be 60 years of age or older.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1990, Act 171, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.589a Senior care respite fund; creation; administration; expenditures; money credited to fund; balances carried over.

Sec. 9a. (1) The senior care respite fund is created in the department of treasury. The fund shall be administered by the office and shall be expended only as provided in section 9b.

(2) The state treasurer shall credit to the fund all of the following:

(a) Money that descends to the state as an escheat pursuant to section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being section 550.1403a of the Michigan Compiled Laws.

(b) Money received as a gift or donation to the fund.

(c) Money from any other source as provided by law.

(3) Any balances in the fund at the end of any fiscal year shall be carried over as a part of the fund and shall not revert to the general fund of the state.

History: Add. 1990, Act 171, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.589b Senior care respite fund; distribution of money; administrative costs.

Sec. 9b. (1) The office shall annually distribute the money in the senior care respite fund to the area agencies on aging. Each area agency on aging shall receive a minimum of \$25,000.00, or a proportionate part of that amount if sufficient money is not available, with all remaining money, if any, distributed according to a formula developed by the office pursuant to rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, or according to the terms and conditions of the donor.

(2) Up to 1% of the fund may be used for administrative costs of the office for administering the senior care respite fund.

History: Add. 1990, Act 171, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.590 Proposed state program concerned with providing services to older persons; review and approval of office; obtaining budget request relating to programs for older persons.

Sec. 10. A proposed state program concerned with providing services to older persons shall be submitted to, and coordinated with, the office, and an allotment of funds for that purpose shall not be recommended to the state administrative board without the review and approval of the office. The office shall obtain from the department of management and budget a copy of any budget request relating to programs for older persons.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.591 Rules.

Sec. 11. The office, in consultation with, and with the approval of, the commission, shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the implementation and administration of this act. A draft of the proposed rules to implement this act shall be submitted to public hearing no later than 30 days following the effective date of this act.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

Administrative rules: R 400.20101 et seq. of the Michigan Administrative Code.

400.592 Review of functions, responsibilities, and performance of office and commission.

Sec. 12. A thorough review of the functions, responsibilities, and performance of the office and commission shall be completed every 5 years after the effective date of this act.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.593 Transfer of equipment, records, and supplies to commission and office.

Sec. 13. The equipment, records, and supplies of the commission and office which are repealed pursuant to section 14 are transferred to the commission and office created by sections 3 and 5, respectively.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

400.594 Repeal of MCL 400.541 to 400.553.

Sec. 14. Act No. 146 of the Public Acts of 1975, as amended, being sections 400.541 to 400.553 of the Compiled Laws of 1970, is repealed.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 180

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