

**DISABILITY ACT COMPLIANCE REQUIREMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jennifer Dailey-Provost**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates the Disability Ombudsman Program.

**Highlighted Provisions:**

This bill:

- defines terms;
- creates 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
- requires the disability ombudsman to keep certain materials relating to a complaint or investigation confidential.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**62A-5-501**, Utah Code Annotated 1953

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



28 [62A-5-503](#), Utah Code Annotated 1953  
29 [62A-5-504](#), Utah Code Annotated 1953  
30 [62A-5-505](#), Utah Code Annotated 1953

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

33 Section 1. Section **62A-5-501** is enacted to read:

34 **Part 5. Disability Ombudsman Program**

35 **62A-5-501. Definitions.**

36 As used in this part:

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

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

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

43 (4) "Ombudsman" means the ombudsman appointed under Section [62A-5-502](#).

44 (5) "Ombudsman program" means the Disability Ombudsman Program created in  
45 Section [62A-5-502](#).

46 (6) "Rights and privileges of an individual with a disability" means the rights and  
47 privileges of an individual with a disability described in:

48 (a) Subsections [62A-5b-103](#)(1) through (3); and

49 (b) 42 U.S.C. 12181 through 12189 of the Americans with Disabilities Act of 1990, or  
50 28 C.F.R. Part 36 of the Code of Federal Regulations.

51 Section 2. Section **62A-5-502** is enacted to read:

52 **62A-5-502. Disability Ombudsman Program -- Creation -- Appointment of**  
53 **ombudsman.**

54 (1) There is created within the division the "Disability Ombudsman Program" for the  
55 purpose of promoting and advocating for the rights and privileges of an individual with a  
56 disability and ensuring that the rights and privileges of an individual with a disability are  
57 upheld.

58 (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:

(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;

(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.