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SENATE BILL NO. 312

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend the Code of Virginia by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.3, relating to Department of Aging and Rehabilitative Services; Office of the Independent Living Community Ombudsman established.

Patrons—Salim and Hashmi

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.3 as follows:

§ 51.5-169.3. Office of the Independent Living Community Ombudsman.

A. The Department of Aging and Rehabilitative Services shall establish and manage the Office of the Independent Living Community Ombudsman (The Office). The purpose of the Office shall be to receive, record, and respond to concerns related to independent living communities. The Office shall operate a complaint line to receive, record, and respond to such concerns.

B. When handling complaints, the Office shall take the following steps:

1. The Office shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If the person alleging a reasonably specified complaint is unable or unwilling to resolve the complaint himself, the Office shall attempt to obtain reasonably specific information from the complainant, and in accordance with such information, the Office shall assess the complaint to determine the most appropriate means of investigating and resolving the complaint as follows.

a. The Office shall investigate reasonably specified complaints reported to the Office that allege action, inaction, or decisions of providers of independent living care services or their representatives that may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. The Office shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. The Office shall refer complaints concerning independent living regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation.

d. When the complaint alleges abuse, neglect, or exploitation, the Office shall make a referral by telephone immediately to the appropriate adult protective services staff in the appropriate local department of social services. "Appropriate local department of social services" means the department of social services in the locality where (i) the alleging person resides; (ii) the abuse, neglect, or exploitation is alleged to have occurred; or (iii) the complaint is discovered.

e. The Office shall forward a reasonably specified complaint to the appropriate regulatory agency or to the adult protective services unit within three working days of the date on which the complaint is received.

f. The Office shall complete its investigation of a complaint handled by the Office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any independent living service provider or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint under this regulation or for providing assistance to the complaining party.

C. The Office shall comply with the provisions of confidentiality required by the Code of Virginia and the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office. The Office shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation. The Office may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the Ombudsman.