

Legislative
Assembly
of Ontario



Assemblée
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de l'Ontario

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Bill 101

An Act to establish the Advocate for Older Adults

Co-sponsors:

MPP L. Vaugeois

MPP L. Lindo

Private Members' Bill

1st Reading April 19, 2023

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts the *Advocate for Older Adults Act, 2023*, which establishes an Advocate for Older Adults who is an independent officer of the Legislative Assembly. The functions of the Advocate for Older Adults include advocating in the interests of older adults and family members of older adults who act as caregivers. In addition, the Advocate for Older Adults is required to advise, in an independent manner, the Minister, public officials and persons who fund or deliver services for older adults on systemic challenges faced by older adults, policies and practices to address existing systemic challenges and other matters that may come to the attention of the Advocate for Older Adults.

The Advocate for Older Adults may make reports to the public and is required to prepare an annual report on the activities of the Advocate. The reports may include recommendations relevant to preventing and mitigating the systemic challenges faced by older adults. In order to assist the Advocate for Older Adults, the Advocate may establish an advisory council. The Advocate for Older Adults also has authority to require the provision of information in specified circumstances. The Act also provides that no person shall face reprisals for having assisted the Advocate for Older Adults. Other administrative matters are provided for.

An Act to establish the Advocate for Older Adults

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 In this Act,

“Minister” means the Minister to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“older adult” means a person who is 65 years of age or older; (“personne âgée”)

“services for older adults” means any programs, services or systems of support in relation to health care, personal care, housing, transportation or income support that are generally used by or associated with persons who are 65 years of age or older. (“services aux personnes âgées”)

ESTABLISHMENT AND FUNCTIONS OF THE ADVOCATE FOR OLDER ADULTS

Advocate for Older Adults

2 (1) There shall be an Advocate for Older Adults who is an independent officer of the Assembly.

Functions

(2) The Advocate for Older Adults shall,

- (a) monitor the provision of services for older adults, including those provided by the Government of Ontario;
- (b) analyze the policies of the Government of Ontario with respect to their impact on older adults;
- (c) analyze issues that the Advocate for Older Adults believes to be important to the welfare of older adults generally; and
- (d) advocate in the interests of older adults and their family members who act as caregivers.

Same

(3) Without limiting the generality of subsection (2), the Advocate for Older Adults may,

- (a) identify and analyze systemic challenges faced by older adults;
- (b) collaborate with persons who fund or deliver services for older adults for the purposes of improving the efficiency and effectiveness of service delivery;
- (c) promote awareness, by older adults, their caregivers and their families, of systemic challenges faced by older adults, and of the resources available to older adults; and
- (d) make recommendations to government and to persons who fund or deliver services for older adults respecting changes to improve the welfare of older adults.

Referral

(4) If the Advocate for Older Adults learns of a matter that, in the opinion of the Advocate for Older Adults, should be dealt with through an individual complaint rather than as part of a systemic analysis, the Advocate for Older Adults may, with the consent of the individual concerned, refer the matter directly to the person or body responsible for the matter.

Duty to advise on older adult issues

3 (1) The Advocate for Older Adults shall advise, in an independent manner, the Minister, public officials and persons who fund or deliver services for older adults on,

- (a) systemic challenges faced by older adults;
- (b) policies and practices to address existing systemic challenges; and
- (c) any other matters that come to the attention of the Advocate for Older Adults.

Public reports

(2) The Advocate for Older Adults may report to the public, in any manner, on any matter that comes to the attention of the Advocate for Older Adults while performing their functions.

Report to Minister

(3) The Minister may require the Advocate for Older Adults to report to the Minister on anything referred to in subsection (1).

Annual reports

(4) The Advocate for Older Adults shall prepare an annual report on the activities of the Advocate for Older Adults and shall,

- (a) make it available to the public on a website; and
- (b) provide a copy of it to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session.

Contents of report

(5) Any report under this section may include recommendations relevant to preventing and mitigating the systemic challenges faced by older adults.

Advisory council

4 (1) The Advocate for Older Adults may establish an advisory council for the purposes of providing advice to the Advocate for Older Adults relating to the performance of the functions of the Advocate for Older Adults.

Composition

(2) The advisory council shall include older adults and family members of older adults who act as caregivers but shall not include persons who fund or deliver services for older adults, or their representatives.

Written request for information

5 (1) Subject to subsection (3), for the purpose of performing their functions under this Act, the Advocate for Older Adults may make a written request for information, other than personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*, from a person or body that funds or delivers services for older adults.

Duty to provide information

(2) A person or body that receives a request under subsection (1) shall, if the person or body has custody or control of the information, provide the information within any reasonable time limit specified by the Advocate for Older Adults.

Limits on power

- (3) The Advocate for Older Adults shall only exercise the power to request information under subsection (1) if,
- (a) the person or body has previously failed to provide the information within a reasonable amount of time following a request by the Advocate for Older Adults; or
 - (b) the person or body previously provided information that, in the opinion of the Advocate for Older Adults, is incomplete, false or misleading.

Crown bound

(4) This section binds the Crown.

No reprisal

6 No person shall take any measure that would adversely affect an individual because the individual provided information to or otherwise assisted the Advocate for Older Adults.

APPOINTMENT OF ADVOCATE FOR OLDER ADULTS AND RELATED MATTERS

Appointment

7 (1) The Assembly shall, by order, appoint the Advocate for Older Adults.

Selection by panel

(2) Unless decided otherwise by unanimous consent of the Assembly, an order shall be made under subsection (1) only if the person to be appointed has been selected by unanimous agreement of a panel composed of one member of the Assembly from each recognized party, chaired by the Speaker who is a non-voting member.

Term of office

8 (1) The Advocate for Older Adults shall hold office for a term of five years and may be reappointed for one further term of five years.

Selection by panel

(2) Subsection 7 (2) applies with respect to a reappointment under subsection (1) of this section.

Continuation in office

(3) By order of the Assembly, the Advocate for Older Adults may continue to hold office after expiry of their term of office until a temporary Advocate for Older Adults is appointed or until a successor is appointed.

Oath of office and secrecy

9 (1) Before beginning the duties of their office, the Advocate for Older Adults shall take an oath or affirmation to faithfully and impartially exercise the functions of the office and to not, except in accordance with subsection (3), disclose any information received as Advocate for Older Adults.

Same

(2) The Speaker or the Clerk of the Assembly shall administer the oath or affirmation.

Disclosure

(3) The Advocate for Older Adults may disclose in any report made under this Act such matters as in the opinion of the Advocate for Older Adults ought to be disclosed in order to establish grounds for any conclusions or recommendations set out in the report.

Application of certain provisions of the *Ombudsman Act*

10 (1) Sections 4, 5, 6, 7, 7.1, 7.2, 7.4, 8, 9 and 10 of the *Ombudsman Act* apply, with necessary modifications, with respect to the Advocate for Older Adults.

Same

(2) Without limiting any further modifications that may be necessary, for the purposes of subsection (1),

- (a) a reference to the Ombudsman shall be read as a reference to the Advocate for Older Adults; and
- (b) references in section 7.1 of the *Ombudsman Act* to section 2, subsection 3 (1) and subsection 3 (3) shall be read as references to section 7, subsection 8 (1) and subsection 8 (3) of this Act, respectively.

Commencement

11 This Act comes into force on the day it receives Royal Assent.

Short title

12 The short title of this Act is the *Advocate for Older Adults Act, 2023*.