

Legislative  
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of Ontario



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# Bill 196

## An Act to establish the Seniors' Advocate

**Ms L. Lindo**

**Private Member's Bill**

1st Reading      July 7, 2020

2nd Reading

3rd Reading

Royal Assent



#### EXPLANATORY NOTE

The Bill enacts the *Seniors' Advocate Act, 2020*, which establishes a Seniors' Advocate who is an independent officer of the Legislative Assembly. The functions of the Seniors' Advocate include advocating in the interests of seniors and family members of seniors who act as caregivers. In addition, the Seniors' Advocate is required to advise, in an independent matter, the Minister, public officials and persons who fund or deliver seniors' services on systemic challenges faced by seniors, policies and practices to address existing systemic challenges and other matters that may come to the attention of the Seniors' Advocate.

The Seniors' Advocate 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 seniors. In order to assist the Seniors' Advocate, the Advocate may establish an advisory council. The Seniors' Advocate 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 Seniors' Advocate. Other administrative matters are provided for.

## An Act to establish the Seniors' Advocate

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

### DEFINITIONS

#### Definitions

1 In this Act,

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

“senior” means a person who is 65 years of age or older; (“aîné”)

“seniors’ services” 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 aînés”)

### ESTABLISHMENT AND FUNCTIONS OF THE SENIORS’ ADVOCATE

#### Seniors’ Advocate

2 (1) There shall be a Seniors’ Advocate who is an independent officer of the Assembly.

#### Functions

(2) The Seniors’ Advocate shall,

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

#### Same

(3) Without limiting the generality of subsection (2), the Seniors’ Advocate may,

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

#### Referral

(4) If the Seniors’ Advocate learns of a matter that, in the opinion of the Seniors’ Advocate, should be dealt with through an individual complaint rather than as part of a systemic analysis, the Seniors’ Advocate 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 seniors’ issues

3 (1) The Seniors’ Advocate shall advise, in an independent manner, the Minister, public officials and persons who fund or deliver seniors’ services on,

- (a) systemic challenges faced by seniors;
- (b) policies and practices to address existing systemic challenges; and
- (c) any other matters that come to the attention of the Seniors’ Advocate.

**Public reports**

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

**Report to Minister**

(3) The Minister may require the Seniors' Advocate to report to the Minister on anything referred to in subsection (1).

**Annual reports**

(4) The Seniors' Advocate shall prepare an annual report on the activities of the Seniors' Advocate 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 seniors.

**Advisory council**

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

**Composition**

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

**Written request for information**

5 (1) Subject to subsection (3), for the purpose of performing their functions under this Act, the Seniors' Advocate 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 seniors' services.

**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 Seniors' Advocate.

**Limits on power**

(3) The Seniors' Advocate 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 Seniors' Advocate; or
- (b) the person or body previously provided information that, in the opinion of the Seniors' Advocate, 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 Seniors' Advocate.

## APPOINTMENT OF SENIORS' ADVOCATE AND RELATED MATTERS

**Appointment**

7 (1) The Assembly shall, by order, appoint the Seniors' Advocate.

**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 Seniors' Advocate 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 Seniors' Advocate may continue to hold office after expiry of their term of office until a temporary Seniors' Advocate is appointed or until a successor is appointed.

**Oath of office and secrecy**

9 (1) Before beginning the duties of their office, the Seniors' Advocate 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 Seniors' Advocate.

**Same**

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

**Disclosure**

(3) The Seniors' Advocate may disclose in any report made under this Act such matters as in the Seniors' Advocate's opinion 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 Seniors' Advocate.

**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 Seniors' Advocate; 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 *Seniors' Advocate Act, 2020*.**