

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 616

*An Act to amend the Code of Virginia by adding in Chapter 2 of Title 65.2 a section numbered 65.2-205, relating to the Virginia Workers' Compensation Act; creation of Ombudsman program.*

[H 1558]

Approved April 2, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 65.2 a section numbered 65.2-205 as follows:**

**§ 65.2-205. Ombudsman program; confidentiality.**

*A. The Commission may create an Ombudsman program and appoint an ombudsman to administer such program. The purpose of the Ombudsman program shall be to provide neutral educational information and assistance to persons who are not represented by an attorney, including those persons who have claims pending or docketed before the Commission. The ombudsman shall be an attorney licensed by the Virginia State Bar, in active status, and in good standing. The ombudsman and any Ombudsman program personnel shall carry out their duties with impartiality and shall not serve as an advocate for any person or provide legal advice.*

*B. All memoranda, work products, and other materials contained in the case files of the ombudsman or Ombudsman program personnel shall be confidential. Any communication between the ombudsman or Ombudsman program personnel and a person receiving assistance as provided by this section that is made during or in connection with the provision of Ombudsman program services, including screening, intake, and scheduling, shall be confidential.*

*Confidential materials and communications are not subject to disclosure and shall not be admissible in any judicial or administrative proceeding except where (i) a threat to inflict bodily injury is made; (ii) communications are intentionally used to plan, attempt to commit, or commit a crime or conceal an ongoing crime; (iii) a complaint is made against Ombudsman program personnel by a person receiving assistance to the extent necessary for the complainant to prove misconduct or the Ombudsman program personnel to defend against such complaint; or (iv) communications are sought or offered to prove or disprove a claim or complaint of misconduct or malpractice filed against the legal representative of a person who received assistance from the Ombudsman program.*

*Confidential materials and communications as described in this section are not subject to mandatory disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

*C. The ombudsman and Ombudsman program personnel are immune from civil liability in their performance of the duties specified in this section.*