

Amend CSHB 1371 (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter Y to read as follows:

SUBCHAPTER Y. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE

Sec. 531.991. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Ombudsman" means the individual appointed as the ombudsman for children and youth in foster care.

Sec. 531.992. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE. (a) The executive commissioner shall appoint an ombudsman for children and youth in foster care to serve at the will of the executive commissioner.

(b) The ombudsman is administratively attached to the office of the ombudsman for the commission.

(c) Subject to the appropriation of money for that purpose, the ombudsman may employ staff to assist the ombudsman in performing the ombudsman's duties under this subchapter.

Sec. 531.993. DUTIES OF OMBUDSMAN. (a) The ombudsman serves as a neutral party in assisting children and youth in the conservatorship of the department with complaints regarding issues within the authority of the department or another health and human services agency.

(b) The ombudsman shall:

(1) develop and implement statewide procedures to:

(A) receive complaints from children and youth in the conservatorship of the department;

(B) review complaints filed with the ombudsman and take appropriate action, including:

(i) conducting an investigation into individual complaints that allege violations of department or agency procedure or policy or other violations; and

(ii) referring to department or agency management for resolution any trends or systemic issues identified in complaints;

(C) provide any necessary assistance to children

and youth in the conservatorship of the department in making complaints and reporting allegations of abuse or neglect to the department;

(D) maintain the confidentiality of:

(i) the ombudsman's communications and records;

(ii) records of another person that have been provided to the ombudsman; and

(iii) communications of another person with the ombudsman; and

(E) ensure that the department and a child or youth in the conservatorship of the department who files a complaint with the ombudsman are informed of the results of the ombudsman's investigation of the complaint, including whether the ombudsman was able to substantiate the child's or youth's complaint;

(2) collaborate with the department to develop and implement an annual outreach plan to promote awareness of the ombudsman among children and youth in the conservatorship of the department;

(3) issue and file with the department and any applicable health and human services agency a report that contains the ombudsman's final determination regarding a complaint and any recommended corrective actions to be taken as a result of the complaint;

(4) establish a secure form of communication with any individual who files a complaint with the ombudsman; and

(5) collaborate with the department to identify consequences for any retaliatory action related to a complaint filed with the ombudsman, in accordance with Section 40.0041(g), Human Resources Code.

Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. If, during the investigation of a complaint, the ombudsman discovers unreported violations of the department's or a health and human services agency's rules and policies, the ombudsman shall open a new investigation for each unreported violation.

Sec. 531.995. ACCESS TO INFORMATION. The department and

each health and human services agency shall provide the ombudsman access to the department's or agency's records that relate to a complaint the ombudsman is reviewing or investigating.

Sec. 531.996. COMMUNICATION AND CONFIDENTIALITY. (a) A person may communicate with the ombudsman relating to a complaint by telephone, by mail, by electronic mail, or by any other means the ombudsman determines to be feasible, secure, and accessible to children and youth.

(b) A communication with the ombudsman is confidential during an investigation or review of a complaint and remains confidential after the complaint is resolved.

(c) The records of the ombudsman are confidential and must be maintained in a manner that preserves the confidentiality of the records.

(d) The disclosure of confidential information to the ombudsman under this section or Section 531.995 does not constitute a waiver of confidentiality. Any information disclosed to the ombudsman under this section or Section 531.995 remains confidential and privileged following disclosure.

(e) The ombudsman is not prohibited from communicating with the department or another health and human services agency regarding confidential information disclosed to the ombudsman by the department or agency.

(f) The ombudsman may make reports relating to an investigation of a complaint public after the complaint is resolved. A report may not include information that identifies an individual complainant, client, parent, or employee or any other person involved in the complaint.

Sec. 531.997. RETALIATION PROHIBITED. The department or another health and human services agency may not retaliate against a child or youth in the conservatorship of the department who in good faith makes a complaint to the ombudsman or against any person who cooperates with the ombudsman in an investigation.

Sec. 531.998. REPORT. (a) The ombudsman shall prepare an annual report that contains:

- (1) a description of the ombudsman's work;
- (2) any change made by the department or another

health and human services agency in response to a substantiated complaint;

(3) a description of any trends in the nature of complaints received by the ombudsman, any recommendations related to addressing those trends, and an evaluation of the feasibility of the ombudsman's recommendations;

(4) a glossary of terms used in the report;

(5) a description of the methods used to promote awareness of the ombudsman under Section 531.993(b) and the ombudsman's promotion plan for the next year; and

(6) any public feedback received by the ombudsman relating to the ombudsman's previous annual reports.

(b) The report must be submitted to the executive commissioner and the commissioner of the department not later than December 1 of each year. On receipt of the report, the department and the commission shall make the report publicly available on the department's and the commission's Internet websites.

SECTION 2. Section 40.0041, Human Resources Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The department shall cooperate with the ombudsman for children and youth in foster care to create consequences, based on the circumstances of the complaint and the severity of the retaliation, for any person who is found to have retaliated against a child or youth in the conservatorship of the department because of a complaint made to the ombudsman.

(h) The executive commissioner shall adopt rules requiring all residential child-care facilities in which children and youth in the conservatorship of the department are placed to display information about the ombudsman for children and youth in foster care and the process for filing a complaint with the ombudsman in a location that is easily accessible and offers maximum privacy to the children and youth residing at the facility.

SECTION 3. As soon as possible after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall assign one full-time equivalent employee of the Department of Family and Protective Services to serve as the ombudsman for children and youth in foster care.

SECTION 4. This Act takes effect September 1, 2015.