



FLOOR AMENDMENT NO. \_\_\_\_\_

BY: Dutton

1 Amend C.S.H.B. No. 1371 (house committee printing) by  
2 striking all below the enacting clause and substituting the  
3 following:

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

6 SUBCHAPTER Y. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE

7 Sec. 531.991. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

26 (b) The ombudsman shall:

27 (1) develop and implement statewide procedures to:

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

1                   (B) review complaints filed with the ombudsman  
2 and take appropriate action, including:  
3                   (i) conducting an investigation into  
4 individual complaints that allege violations of department or  
5 agency procedure or policy or other violations; and  
6                   (ii) referring to department or agency  
7 management for resolution any trends or systemic issues identified  
8 in complaints;  
9                   (C) provide any necessary assistance to children  
10 and youth in the conservatorship of the department in making  
11 complaints and reporting allegations of abuse or neglect to the  
12 department;  
13                   (D) maintain the confidentiality of:  
14                   (i) the ombudsman's communications and  
15 records;  
16                   (ii) records of another person that have  
17 been provided to the ombudsman; and  
18                   (iii) communications of another person with  
19 the ombudsman; and  
20                   (E) ensure that the department and a child or  
21 youth in the conservatorship of the department who files a  
22 complaint with the ombudsman are informed of the results of the  
23 ombudsman's investigation of the complaint, including whether the  
24 ombudsman was able to substantiate the child's or youth's  
25 complaint;  
26                   (2) collaborate with the department to develop and  
27 implement an annual outreach plan to promote awareness of the  
28 ombudsman among children and youth in the conservatorship of the  
29 department;  
30                   (3) issue and file with the department and any  
31 applicable health and human services agency a report that contains

1 the ombudsman's final determination regarding a complaint and any  
2 recommended corrective actions to be taken as a result of the  
3 complaint;

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

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

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

15 Sec. 531.995. ACCESS TO INFORMATION. The department and  
16 each health and human services agency shall provide the ombudsman  
17 access to the department's or agency's records that relate to a  
18 complaint the ombudsman is reviewing or investigating.

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

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

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

30 (d) The disclosure of confidential information to the  
31 ombudsman under this section or Section 531.995 does not constitute

1 a waiver of confidentiality. Any information disclosed to the  
2 ombudsman under this section or Section 531.995 remains  
3 confidential and privileged following disclosure.

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

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

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

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

20 (1) a description of the ombudsman's work;

21 (2) any change made by the department or another  
22 health and human services agency in response to a substantiated  
23 complaint;

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

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

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

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

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

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

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

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

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

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