

1-1 By: Kolkhorst S.B. No. 830
1-2 (In the Senate - Filed February 26, 2015; March 3, 2015,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; May 6, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 6, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 830 By: Kolkhorst

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the creation of an independent ombudsman for children
1-22 and youth in foster care.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 531, Government Code, is amended by
1-25 adding Subchapter Y to read as follows:

1-26 SUBCHAPTER Y. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE

1-27 Sec. 531.991. DEFINITIONS. In this subchapter:

1-28 (1) "Department" means the Department of Family and
1-29 Protective Services.

1-30 (2) "Ombudsman" means the individual appointed as the
1-31 ombudsman for children and youth in foster care.

1-32 Sec. 531.992. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER
1-33 CARE. (a) The executive commissioner shall appoint an ombudsman
1-34 for children and youth in foster care to serve at the will of the
1-35 executive commissioner.

1-36 (b) The ombudsman is administratively attached to the
1-37 office of the ombudsman for the commission.

1-38 (c) Subject to the appropriation of money for that purpose,
1-39 the ombudsman may employ staff to assist the ombudsman in
1-40 performing the ombudsman's duties under this subchapter.

1-41 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) The ombudsman
1-42 serves as a neutral party in assisting children and youth in the
1-43 conservatorship of the department with complaints regarding issues
1-44 within the authority of the department or another health and human
1-45 services agency.

1-46 (b) The ombudsman shall:

1-47 (1) develop and implement statewide procedures to:

1-48 (A) receive complaints from children and youth in
1-49 the conservatorship of the department;

1-50 (B) review complaints filed with the ombudsman
1-51 and take appropriate action, including:

1-52 (i) conducting an investigation into
1-53 individual complaints that allege violations of department or
1-54 agency procedure or policy or other violations; and

1-55 (ii) referring to department or agency
1-56 management for resolution any trends or systemic issues identified
1-57 in complaints;

1-58 (C) provide any necessary assistance to children
1-59 and youth in the conservatorship of the department in making
1-60 complaints and reporting allegations of abuse or neglect to the

2-1 department;
2-2 (D) maintain the confidentiality of:
2-3 (i) the ombudsman's communications and
2-4 records;
2-5 (ii) records of another person that have
2-6 been provided to the ombudsman; and
2-7 (iii) communications of another person with
2-8 the ombudsman; and
2-9 (E) ensure that the department and a child or
2-10 youth in the conservatorship of the department who files a
2-11 complaint with the ombudsman are informed of the results of the
2-12 ombudsman's investigation of the complaint, including whether the
2-13 ombudsman was able to substantiate the child's or youth's
2-14 complaint;
2-15 (2) collaborate with the department to develop and
2-16 implement an annual outreach plan to promote awareness of the
2-17 ombudsman among children and youth in the conservatorship of the
2-18 department;
2-19 (3) issue and file with the department and any
2-20 applicable health and human services agency a report that contains
2-21 the ombudsman's final determination regarding a complaint and any
2-22 recommended corrective actions to be taken as a result of the
2-23 complaint;
2-24 (4) establish a secure form of communication with any
2-25 individual who files a complaint with the ombudsman; and
2-26 (5) collaborate with the department to identify
2-27 consequences for any retaliatory action related to a complaint
2-28 filed with the ombudsman, in accordance with Section 40.0041(g),
2-29 Human Resources Code.
2-30 Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. If,
2-31 during the investigation of a complaint, the ombudsman discovers
2-32 unreported violations of the department's or a health and human
2-33 services agency's rules and policies, the ombudsman shall open a
2-34 new investigation for each unreported violation.
2-35 Sec. 531.995. ACCESS TO INFORMATION. The department and
2-36 each health and human services agency shall provide the ombudsman
2-37 access to the department's or agency's records that relate to a
2-38 complaint the ombudsman is reviewing or investigating.
2-39 Sec. 531.996. COMMUNICATION AND CONFIDENTIALITY. (a) A
2-40 person may communicate with the ombudsman relating to a complaint
2-41 by telephone, by mail, by electronic mail, or by any other means the
2-42 ombudsman determines to be feasible, secure, and accessible to
2-43 children and youth.
2-44 (b) A communication with the ombudsman is confidential
2-45 during an investigation or review of a complaint and remains
2-46 confidential after the complaint is resolved.
2-47 (c) The records of the ombudsman are confidential and must
2-48 be maintained in a manner that preserves the confidentiality of the
2-49 records.
2-50 (d) The disclosure of confidential information to the
2-51 ombudsman under this section or Section 531.995 does not constitute
2-52 a waiver of confidentiality. Any information disclosed to the
2-53 ombudsman under this section or Section 531.995 remains
2-54 confidential and privileged following disclosure.
2-55 (e) The ombudsman is not prohibited from communicating with
2-56 the department or another health and human services agency
2-57 regarding confidential information disclosed to the ombudsman by
2-58 the department or agency.
2-59 (f) The ombudsman may make reports relating to an
2-60 investigation of a complaint public after the complaint is
2-61 resolved. A report may not include information that identifies an
2-62 individual complainant, client, parent, or employee or any other
2-63 person involved in the complaint.
2-64 Sec. 531.997. RETALIATION PROHIBITED. The department or
2-65 another health and human services agency may not retaliate against
2-66 a child or youth in the conservatorship of the department who in
2-67 good faith makes a complaint to the ombudsman or against any person
2-68 who cooperates with the ombudsman in an investigation.
2-69 Sec. 531.998. REPORT. (a) The ombudsman shall prepare an

3-1 annual report that contains:
3-2 (1) a description of the ombudsman's work;
3-3 (2) any change made by the department or another
3-4 health and human services agency in response to a substantiated
3-5 complaint;
3-6 (3) a description of any trends in the nature of
3-7 complaints received by the ombudsman, any recommendations related
3-8 to addressing those trends, and an evaluation of the feasibility of
3-9 the ombudsman's recommendations;
3-10 (4) a glossary of terms used in the report;
3-11 (5) a description of the methods used to promote
3-12 awareness of the ombudsman under Section 531.993(b) and the
3-13 ombudsman's promotion plan for the next year; and
3-14 (6) any public feedback received by the ombudsman
3-15 relating to the ombudsman's previous annual reports.
3-16 (b) The report must be submitted to the executive
3-17 commissioner and the commissioner of the department not later than
3-18 December 1 of each year. On receipt of the report, the department
3-19 and the commission shall make the report publicly available on the
3-20 department's and the commission's Internet websites.
3-21 SECTION 2. Section 40.0041, Human Resources Code, is
3-22 amended by adding Subsections (g) and (h) to read as follows:
3-23 (g) The department shall cooperate with the ombudsman for
3-24 children and youth in foster care to create consequences, based on
3-25 the circumstances of the complaint and the severity of the
3-26 retaliation, for any person who is found to have retaliated against
3-27 a child or youth in the conservatorship of the department because of
3-28 a complaint made to the ombudsman.
3-29 (h) The executive commissioner shall adopt rules requiring
3-30 all residential child-care facilities in which children and youth
3-31 in the conservatorship of the department are placed to display
3-32 information about the ombudsman for children and youth in foster
3-33 care and the process for filing a complaint with the ombudsman in a
3-34 location that is easily accessible and offers maximum privacy to
3-35 the children and youth residing at the facility.
3-36 SECTION 3. As soon as possible after the effective date of
3-37 this Act, the executive commissioner of the Health and Human
3-38 Services Commission shall assign one full-time equivalent employee
3-39 of the Department of Family and Protective Services to serve as the
3-40 ombudsman for children and youth in foster care.
3-41 SECTION 4. This Act takes effect September 1, 2015.

3-42

* * * * *