

By: Menéndez, Garcia

S.B. No. 213

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the office of ombudsman for the Department of Family and
3 Protective Services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Subchapter Y, Chapter 531,
6 Government Code, is amended to read as follows:

7 SUBCHAPTER Y. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND
8 PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~]

9 SECTION 2. Section 531.991(2), Government Code, is amended
10 to read as follows:

11 (2) "Ombudsman" means the individual appointed as the
12 ombudsman for the Department of Family and Protective Services
13 [~~children and youth in foster care~~].

14 SECTION 3. The heading to Section 531.992, Government Code,
15 is amended to read as follows:

16 Sec. 531.992. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND
17 PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~].

18 SECTION 4. Section 531.992(a), Government Code, is amended
19 to read as follows:

20 (a) The governor [~~executive commissioner~~] shall appoint an
21 ombudsman for the Department of Family and Protective Services
22 [~~children and youth in foster care~~] to serve at the will of the
23 governor [~~executive commissioner~~].

24 SECTION 5. Subchapter Y, Chapter 531, Government Code, is

1 amended by adding Section 531.9921 to read as follows:

2 Sec. 531.9921. CONFLICT OF INTEREST. A person may not serve
3 as ombudsman if the person or the person's spouse:

4 (1) is employed by or participates in the management
5 of a business entity or other organization receiving funds from the
6 department;

7 (2) owns or controls, directly or indirectly, any
8 interest in a business entity or other organization receiving funds
9 from the department; or

10 (3) is required to register as a lobbyist under
11 Chapter 305 because of the person's activities for compensation on
12 behalf of a profession related to the operation of the department.

13 SECTION 6. Section 531.993, Government Code, is amended to
14 read as follows:

15 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) The ombudsman
16 serves as a neutral party in assisting:

17 (1) children and youth in the conservatorship of the
18 department with complaints regarding issues within the authority of
19 the department or another health and human services agency; and

20 (2) persons with a complaint against the department
21 regarding case-specific activities of the programs of the
22 department, including adult protective services, child protective
23 services, child-care licensing, and statewide intake.

24 (b) The ombudsman shall:

25 (1) develop and implement statewide procedures to:

26 (A) receive complaints from children and youth in
27 the conservatorship of the department and other persons with a

1 complaint against the department;

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

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

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

10 (C) provide any necessary assistance to children
11 and youth in the conservatorship of the department in making
12 complaints and reporting allegations of abuse or neglect to the
13 department;

14 (D) maintain the confidentiality of:

15 (i) the ombudsman's communications and
16 records;

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

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

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

27 (2) collaborate with the department to develop and

1 implement an annual outreach plan to promote awareness of the
2 ombudsman among the public, children and youth in the
3 conservatorship of the department, family members and caretakers of
4 those children, and facilities licensed by the department and that
5 includes:

6 (A) how the office may be contacted;

7 (B) the purpose of the office; and

8 (C) the services the office provides;

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

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

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

20 (6) monitor and evaluate the department's corrective
21 actions taken in response to a recommendation by the ombudsman.

22 (c) The ombudsman's final determination in a report
23 described by Subsection (b)(3) must include a determination of
24 whether there was wrongdoing or negligence by the department or an
25 agent of the department or whether the complaint was frivolous and
26 without merit. If the ombudsman determines there was wrongdoing or
27 negligence, the ombudsman shall recommend corrective actions to be

1 taken by the department.

2 (d) The ombudsman may attend any judicial proceeding
3 related to a complaint filed with the office.

4 SECTION 7. Subchapter Y, Chapter 531, Government Code, is
5 amended by adding Section 531.9941 to read as follows:

6 Sec. 531.9941. DISPUTES REGARDING FOSTER CHILDREN. (a) A
7 child-placing agency responsible for a foster child may refer a
8 dispute regarding the child's placement or the permanency plan for
9 the child to the ombudsman by filing a complaint with the ombudsman.

10 (b) The complaint filed with the ombudsman must include a
11 clear explanation of the dispute and the requested remedy.

12 (c) The ombudsman shall notify the court with jurisdiction
13 over the child's case of any investigation of a complaint filed
14 under this subchapter.

15 SECTION 8. Section 531.997, Government Code, is amended to
16 read as follows:

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

23 SECTION 9. Section 531.998(b), Government Code, is amended
24 to read as follows:

25 (b) The report must be submitted to the governor, the
26 lieutenant governor, each standing committee of the legislature
27 with jurisdiction over matters involving the department, each

1 member of the legislature, the executive commissioner, and the
2 commissioner of the department not later than December 1 of each
3 year. On receipt of the report, the department and the commission
4 shall make the report publicly available on the department's and
5 the commission's Internet websites.

6 SECTION 10. As soon as practicable after the effective date
7 of this Act, the commissioner of the Department of Family and
8 Protective Services shall:

9 (1) abolish the office of consumer affairs in the
10 department; and

11 (2) transfer any department funds and resources
12 allocated to the office of consumer affairs to the ombudsman for the
13 Department of Family and Protective Services created under
14 Subchapter Y, Chapter 531, Government Code, as amended by this Act.

15 SECTION 11. This Act takes effect only if a specific
16 appropriation for the implementation of the Act is provided in a
17 general appropriations act of the 85th Legislature.

18 SECTION 12. This Act takes effect September 1, 2017.