

BILL ANALYSIS

C.S.S.B. 1101
By: Kolkhorst
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

S.B. 200, enacted by the 84th Legislature, Regular Session, 2015, provided for the consolidation of the state's health and human services system. As part of that consolidation, S.B. 200 established the office of the ombudsman for the Health and Human Services Commission (HHSC) and abolished various other ombudsman offices within that system. C.S.S.B. 1101 seeks to provide for a consolidation of the remaining ombudsman programs operated by HHSC within the office of the ombudsman for HHSC.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1101 amends the Government Code to provide for the establishment and consolidation of the following ombudsman programs, as applicable, to be managed as part of the office of the ombudsman for the Health and Human Services Commission (HHSC):

- the ombudsman for children and youth in foster care;
- the ombudsman for managed care;
- the ombudsman for behavioral health access to care; and
- the ombudsman for individuals with intellectual or developmental disabilities.

C.S.S.B. 1101 requires the executive commissioner of HHSC to appoint an ombudsman for each ombudsman program to serve at the will of the executive commissioner and authorizes each ombudsman, subject to appropriation, to employ staff to assist the ombudsman in performing the ombudsman's duties.

C.S.S.B. 1101 sets out and revises provisions relating to the following to reflect both the consolidation of ombudsman programs and the abolishment of the ombudsman for the Department of Family and Protective Services (DFPS) in accordance with the health and human services system consolidation provided for by S.B. 200, Acts of the 84th Legislature, Regular Session, 2015, and to establish the program-specific duties of the consolidated ombudsman programs, particularly with regard to complaint management and processing:

- the general duties of the former office of the ombudsman for DFPS;

- the division of the ombudsman for children and youth in foster care within the office of the ombudsman for HHSC;
- the requirement for HHSC to provide support services for Medicaid recipients;
- the ombudsman for behavioral health access to care; and
- the ombudsman for individuals with intellectual or developmental disabilities.

C.S.S.B. 1101 revises provisions establishing the office of the ombudsman for HHSC to do the following:

- clarify that the services provided by the office are provided for and with respect to the consumer, defined by the bill as one of the following:
 - a member of the public seeking information about a program of the health and human services system;
 - an applicant or client of such a program;
 - the applicant's or client's legally authorized representative; or
 - a child or youth in DFPS conservatorship;
- replace a provision establishing that the office does not have the authority to provide a separate process for resolving complaints or appeals with a provision that establishes that the office does not have the authority to process case actions or overturn a decision by HHSC or a program of the health and human services system;
- clarify that contracted vendors are included among the entities within the health and human services system regarding which inquiries and complaint data are tracked and collected; and
- require the office to be sufficiently independent from programs of the health and human services system to perform the ombudsman's duties.

C.S.S.B. 1101 authorizes a child or youth in DFPS conservatorship to file a complaint directly with the ombudsman for children and youth in foster care, regardless of whether the child or youth is served directly by DFPS or by a single source continuum contractor providing services for DFPS.

C.S.S.B. 1101 clarifies that the following are included among the individuals with whom the ombudsman for behavioral health access to care is required to interact to help resolve behavioral health care access issues:

- patients of state hospitals; and
- consumers seeking and receiving services through a local mental or behavioral health authority.

C.S.S.B. 1101 amends the Family Code to include among the rights each child in foster care is entitled to be informed of the right to notification of the outcome of certain investigations in which the child is involved.

C.S.S.B. 1101 repeals Sections 531.9921 and 531.9941, Government Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1101 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the program-specific duties of the ombudsman for child and youth in foster care by:

- specifying that the child care licensing division is the recipient within HHSC of the monthly report from the ombudsman regarding certain investigations;
- specifying that the information required to be contained within the monthly report is information relating to investigations completed during the preceding month;
- making it mandatory to provide that report to the division and to DFPS;
- including a requirement for DFPS or the division, as applicable, to provide notice to the ombudsman on whether DFPS or the division adopted or rejected any of the ombudsman's recommended corrective actions; and
- requiring DFPS and the division to include in that notice the reason for rejecting a recommended action, if applicable.

The substitute does not include provisions setting out a specific complaint process for a child or youth in DFPS conservatorship served by a single source continuum contractor. The substitute includes provisions that instead authorize any child or youth in DFPS conservatorship to file a complaint directly with an ombudsman regardless of whether the child or youth is served directly by DFPS or by a single source continuum contractor.

The substitute includes a provision entitling each child in foster care to be informed of the child's right to notification of the outcome of certain investigations in which the child is involved.