

By: Kolchorst
(Turner of Dallas)

S.B. No. 1101

Substitute the following for S.B. No. 1101:

By: Frank

C.S.S.B. No. 1101

A BILL TO BE ENTITLED

AN ACT

relating to the consolidation of ombudsman programs administered by the Health and Human Services Commission.

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

SECTION 1. Section 263.008(b), Family Code, is amended to read as follows:

(b) It is the policy of this state that each child in foster care be informed of the child's rights provided by state or federal law or policy that relate to:

(1) abuse, neglect, exploitation, discrimination, and harassment;

(2) food, clothing, shelter, and education;

(3) medical, dental, vision, and mental health services, including the right of the child to consent to treatment;

(4) emergency behavioral intervention, including what methods are permitted, the conditions under which it may be used, and the precautions that must be taken when administering it;

(5) placement with the child's siblings and contact with members of the child's family;

(6) privacy and searches, including the use of storage space, mail, and the telephone;

(7) participation in school-related extracurricular or community activities;

(8) interaction with persons outside the foster care

1 system, including teachers, church members, mentors, and friends;

2 (9) contact and communication with caseworkers,
3 attorneys ad litem, guardians ad litem, and court-appointed special
4 advocates;

5 (10) religious services and activities;

6 (11) confidentiality of the child's records;

7 (12) job skills, personal finances, and preparation
8 for adulthood;

9 (13) participation in a court hearing that involves
10 the child;

11 (14) participation in the development of service and
12 treatment plans;

13 (15) if the child has a disability, the advocacy and
14 protection of the rights of a person with that disability; ~~and~~

15 (16) notification of the outcome of any of the
16 following investigations in which the child is involved:

17 (A) an abuse or neglect investigation conducted
18 by the department;

19 (B) a minimum standard investigation conducted
20 by the Health and Human Services Commission; or

21 (C) an investigation of a complaint to the
22 ombudsman for children and youth in foster care; and

23 (17) any other matter affecting the child's ability to
24 receive care and treatment in the least restrictive environment
25 that is most like a family setting, consistent with the best
26 interests and needs of the child.

27 SECTION 2. The heading to Subchapter Y, Chapter 531,

1 Government Code, is amended to read as follows:

2 SUBCHAPTER Y. HEALTH AND HUMAN SERVICES OMBUDSMAN PROGRAMS [~~FOR~~
3 ~~THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES~~]

4 SECTION 3. Section 531.991, Government Code, is amended to
5 read as follows:

6 Sec. 531.991. DEFINITIONS. In this subchapter:

7 (1) "Complaint" means any expression of
8 dissatisfaction by a consumer about a program or service of the
9 health and human services system or of the department.

10 (2) "Consumer" means:

11 (A) an applicant or client of a program of the
12 health and human services system;

13 (B) the applicant's or client's legally
14 authorized representative;

15 (C) a member of the public seeking information
16 about a program of the health and human services system; or

17 (D) a child or youth in the conservatorship of
18 the department.

19 (3) "Department" means the Department of Family and
20 Protective Services.

21 (4) [~~2~~] "Ombudsman" means the individual appointed
22 as the ombudsman for an ombudsman program [~~the Department of Family~~
23 ~~and Protective Services~~].

24 (5) "Ombudsman program" means an ombudsman program
25 administered by the commission under this subchapter.

26 (6) "Retaliation" means a harmful action taken because
27 of, or substantially motivated by, reprisal or revenge in response

1 to a legally protected activity, including making a good faith
2 complaint.

3 (7) "Substantiated complaint" means a complaint for
4 which research clearly indicates:

5 (A) the policy of a program of the health and
6 human services system or the department was violated; or

7 (B) the health and human services system's
8 expectations were not met.

9 SECTION 4. Subchapter Y, Chapter 531, Government Code, is
10 amended by adding Section 531.9912 to read as follows:

11 Sec. 531.9912. ESTABLISHMENT OF OMBUDSMAN PROGRAMS. The
12 executive commissioner shall establish the following ombudsman
13 programs:

14 (1) the health and human services office of the
15 ombudsman in accordance with Section 531.9915;

16 (2) the ombudsman for children and youth in foster
17 care in accordance with Section 531.9931;

18 (3) the ombudsman for managed care in accordance with
19 Section 531.9932;

20 (4) the ombudsman for behavioral health access to care
21 in accordance with Section 531.9933; and

22 (5) the ombudsman for individuals with intellectual or
23 developmental disabilities in accordance with Section 531.9934.

24 SECTION 5. Section 531.0171, Government Code, is
25 transferred to Subchapter Y, Chapter 531, Government Code,
26 redesignated as Section 531.9915, Government Code, and amended to
27 read as follows:

1 Sec. 531.9915 [~~531.0171~~]. OFFICE OF OMBUDSMAN. (a) The
2 executive commissioner shall establish the commission's office of
3 the ombudsman with authority and responsibility over the health and
4 human services system in performing the following functions:

5 (1) providing consumer dispute resolution services
6 for the health and human services system;

7 (2) performing consumer protection and advocacy
8 functions related to health and human services, including assisting
9 a consumer [~~or other interested person~~] with:

10 (A) raising a matter within the health and human
11 services system that the consumer [~~person~~] feels is being ignored;
12 and

13 (B) obtaining information regarding a filed
14 complaint; and

15 (3) collecting consumer inquiry and complaint data
16 related to the health and human services system.

17 (b) The office of the ombudsman does not have the authority
18 to process case actions or overturn a decision by the department or
19 a program of the health and human services system [~~provide a~~
20 ~~separate process for resolving complaints or appeals~~].

21 (c) The executive commissioner shall develop a standard
22 process for tracking and reporting received inquiries and
23 complaints within the health and human services system. The
24 process must provide for the centralized tracking of inquiries and
25 complaints submitted to field, regional, or other local health and
26 human services system offices, including vendors contracted to
27 provide services on behalf of a program of the health and human

1 services system.

2 (d) Using the process developed under Subsection (c), the
3 office of the ombudsman shall collect inquiry and complaint data
4 from all offices, agencies, divisions, and other entities within
5 the health and human services system, including vendors contracted
6 to provide services on behalf of a program of the health and human
7 services system. To assist with the collection of data under this
8 subsection, the office may access any system or process for
9 recording inquiries and complaints used or maintained within the
10 health and human services system.

11 (e) The office of the ombudsman must be sufficiently
12 independent from programs of the health and human services system
13 to perform the ombudsman's duties outlined in this subchapter.

14 SECTION 6. Sections 531.992 and 531.993, Government Code,
15 are amended to read as follows:

16 Sec. 531.992. APPOINTMENT OF OMBUDSMAN [~~FOR THE DEPARTMENT~~
17 ~~OF FAMILY AND PROTECTIVE SERVICES~~]. (a) The executive
18 commissioner [~~governor~~] shall appoint an ombudsman for each
19 ombudsman program [~~the Department of Family and Protective~~
20 ~~Services~~] to serve at the will of the executive commissioner
21 [~~governor~~].

22 (b) The ombudsman programs are managed as part of [~~is~~
23 ~~administratively attached to~~] the office of the ombudsman for the
24 commission.

25 (c) Subject to the appropriation of money for those purposes
26 [~~that purpose~~], each [~~the~~] ombudsman may employ staff to assist the
27 ombudsman in performing the ombudsman's duties under this

1 subchapter.

2 ~~[(d) The ombudsman may not use the name or any logo of the~~
3 ~~department on any forms or other materials produced and distributed~~
4 ~~by the ombudsman.]~~

5 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) An ~~[The]~~ ombudsman
6 serves as a neutral party in assisting:

7 (1) children and youth in the conservatorship of the
8 department with complaints regarding issues within the authority of
9 the commission, the department, or a ~~[another]~~ health and human
10 services agency; and

11 (2) consumers ~~[persons]~~ with a complaint against the
12 commission or a health and human services agency ~~[department]~~
13 regarding case-specific activities of the programs of the
14 commission or agency ~~[department, including adult protective~~
15 ~~services, child protective services, child-care licensing, and~~
16 ~~statewide intake]~~.

17 (b) An ~~[The]~~ ombudsman shall, as applicable:

18 (1) develop and implement statewide procedures to:

19 (A) receive complaints from:

20 (i) children and youth in the
21 conservatorship of the department; and

22 (ii) consumers ~~[other persons]~~ with a
23 complaint against the commission or a health and human services
24 agency ~~[department]~~;

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

27 (i) conducting an investigation into

1 individual complaints that allege violations of commission,
2 department, or agency procedure or policy or other violations; and

3 (ii) referring to commission, department,
4 or agency management for resolution any trends or systemic issues
5 identified in complaints;

6 (C) provide any necessary assistance to:

7 (i) children and youth in the
8 conservatorship of the department in making complaints and
9 reporting allegations of abuse or neglect to the department; and

10 (ii) any consumer in making complaints to
11 the commission or a health and human services agency;

12 (D) maintain the confidentiality of:

13 (i) the ombudsman's communications and
14 records;

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

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

19 (E) ensure that the commission, the department, a
20 health and human services agency, and any consumer who files a
21 complaint with the commission, including [~~person or~~] a child or
22 youth in the conservatorship of the department who files a
23 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~~
26 ~~youth's~~] complaint;

27 (2) collaborate with the commission, the department,

1 or a health and human services agency, as applicable, to develop and
2 implement an annual outreach plan to promote awareness of the
3 ombudsman among the public, children and youth in the
4 conservatorship of the department, [~~family members and caretakers~~
5 ~~of those children,~~] and facilities licensed by the commission
6 [~~department~~] and that includes:

- 7 (A) how the office may be contacted;
- 8 (B) the purpose of the office; and
- 9 (C) the services the office provides;

10 (3) notify in writing [~~issue and file with~~] the
11 commission, the department, and a [~~any applicable~~] health and human
12 services agency, as applicable, of [~~a report that contains~~] the
13 ombudsman's final determination regarding a complaint and any
14 recommended corrective actions to be taken as a result of the
15 complaint;

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

18 (5) collaborate with the commission, the department,
19 and a health and human services agency, as applicable, to identify
20 consequences for any retaliatory action related to a complaint
21 filed with the ombudsman, in accordance with Section 531.997
22 [~~40.0041(g), Human Resources Code~~]; and

23 (6) monitor and evaluate the commission's, the
24 department's, or a health and human services agency's corrective
25 actions taken in response to a recommendation by the ombudsman.

26 (c) An [~~The~~] ombudsman's notification [~~final determination~~
27 ~~in a report~~] described by Subsection (b)(3) must include a

1 determination of whether the complaint is a substantiated complaint
2 ~~[there was wrongdoing or negligence by the department or an agent of~~
3 ~~the department or whether the complaint was frivolous and without~~
4 ~~merit]~~. If the ombudsman determines a complaint is a substantiated
5 complaint ~~[there was wrongdoing or negligence]~~, the ombudsman shall
6 recommend corrective actions to be taken by the commission, the
7 department, or a health and human services agency.

8 (d) The commission, the department, or a health and human
9 services agency, as applicable, shall provide written notice to an
10 ombudsman on whether the commission, department, or agency adopted
11 or rejected the ombudsman's recommended corrective action. On
12 rejection of the recommended corrective action, the commission,
13 department, or health and human services agency shall include in
14 the notice the reason for the rejection ~~[The ombudsman may attend~~
15 ~~any judicial proceeding related to a complaint filed with the~~
16 ~~office]~~.

17 SECTION 7. Section 531.9931, Government Code, is amended to
18 read as follows:

19 Sec. 531.9931. ~~[DIVISION OF]~~ OMBUDSMAN FOR CHILDREN AND
20 YOUTH IN FOSTER CARE. (a) The ~~[division of the]~~ ombudsman for
21 children and youth in foster care is created within the office of
22 the ombudsman for the purpose of:

23 (1) receiving complaints from children and youth in
24 the conservatorship of the department as provided under Section
25 531.993(a)(1);

26 (2) informing children and youth in the
27 conservatorship of the department who file a complaint under this

1 subchapter about the result of the ombudsman's investigation of the
2 complaint, including whether the ombudsman was able to substantiate
3 the child's or youth's complaint; and

4 (3) collaborating with the department to develop an
5 outreach plan for children and youth in the conservatorship of the
6 department to promote awareness of the ombudsman.

7 (b) If a child or youth in the conservatorship of the
8 department contacts an ~~[the]~~ ombudsman by telephone call to report
9 a complaint under this subchapter, the call shall be transferred
10 directly to a person employed by the ~~[division of the]~~ ombudsman
11 created under this section.

12 (c) The ombudsman for children and youth in foster care
13 shall promptly refer to the department for the department to
14 address in accordance with Section 40.0041, Human Resources Code,
15 each complaint received by the ombudsman regarding the department,
16 other than those made by a child or youth in the conservatorship of
17 the department.

18 (d) Not later than the fifth day of each month, the
19 ombudsman for children and youth in foster care shall compile and
20 provide to the department and the commission's child care licensing
21 division a written report regarding the investigations completed
22 during the preceding month. For each complaint investigated, the
23 report must include:

- 24 (1) a summary of the complaint;
25 (2) the ombudsman's final determination; and
26 (3) any corrective action recommended by the
27 ombudsman.

1 (e) The department or the commission's child care licensing
2 division, as applicable, shall provide written notice to the
3 ombudsman for children and youth in foster care on whether the
4 department or division adopted or rejected any of the ombudsman's
5 recommended corrective actions. If the department or division
6 rejects a recommended corrective action, the department or division
7 shall include in the notice the reason for the rejection.

8 SECTION 8. Subchapter Y, Chapter 531, Government Code, is
9 amended by adding Section 531.99315 to read as follows:

10 Sec. 531.99315. COMPLAINT PROCESS FOR FOSTER CHILDREN AND
11 YOUTH. A child or youth in the conservatorship of the department
12 may file a complaint directly with an ombudsman, regardless of
13 whether the child or youth is served directly by the department or
14 by a single source continuum contractor providing services for the
15 department under Subchapter B-1, Chapter 264, Family Code, as added
16 by Chapter 319 (S.B. 11), Acts of the 85th Legislature, Regular
17 Session, 2017.

18 SECTION 9. Section 531.0213, Government Code, is
19 transferred to Subchapter Y, Chapter 531, Government Code,
20 redesignated as Section 531.9932, Government Code, and amended to
21 read as follows:

22 Sec. 531.9932 [531.0213]. OMBUDSMAN FOR MANAGED CARE
23 [SUPPORT SERVICES FOR MEDICAID RECIPIENTS]. (a) The commission
24 shall establish an ombudsman for managed care to provide support
25 and information services to a consumer [person] enrolled in or
26 applying for Medicaid coverage who experiences barriers to
27 receiving health care services.

1 (b) The ombudsman for managed care [~~commission~~] shall give
2 emphasis to assisting a consumer [~~person~~] with an urgent or
3 immediate medical or support need.

4 (b-1) The commission shall provide support and information
5 services required by this section through a network of entities
6 coordinated by the [~~commission's office of the~~] ombudsman for
7 managed care [~~or other division of the commission designated by the~~
8 ~~executive commissioner~~] and composed of:

9 (1) the [~~commission's office of the~~] ombudsman [~~or~~
10 ~~other division of the commission designated by the executive~~
11 ~~commissioner to coordinate the network~~];

12 (2) the office of the state long-term care ombudsman
13 required under Subchapter F, Chapter 101A, Human Resources Code;

14 (3) the division within the commission responsible for
15 oversight of Medicaid managed care contracts;

16 (4) area agencies on aging;

17 (5) aging and disability resource centers established
18 under the Aging and Disability Resource Center initiative funded in
19 part by the federal Administration on Aging and the Centers for
20 Medicare and Medicaid Services; and

21 (6) any other entity the executive commissioner
22 determines appropriate, including nonprofit organizations with
23 which the commission contracts under Subsection (c).

24 (c) The ombudsman for managed care [~~commission~~] may provide
25 support and information services by requesting the commission to
26 contract [~~contracting~~] with nonprofit organizations that are not
27 involved in providing health care, health insurance, or health

1 benefits.

2 (d) As a part of the support and information services
3 required by this section, the ombudsman for managed care
4 ~~[commission]~~ shall:

5 (1) operate a statewide toll-free assistance
6 telephone number that includes relay services for consumers
7 ~~[persons]~~ with speech or hearing disabilities and assistance for
8 consumers ~~[persons]~~ who speak Spanish;

9 (2) intervene promptly with the state Medicaid office,
10 managed care organizations and providers, and any other appropriate
11 entity on behalf of a consumer ~~[person]~~ who has an urgent need for
12 medical services;

13 (3) assist a consumer ~~[person]~~ who is experiencing
14 barriers in the Medicaid application and enrollment process and
15 refer the consumer ~~[person]~~ for further assistance if appropriate;

16 (4) educate consumers ~~[persons]~~ so that they:

17 (A) understand the concept of managed care;

18 (B) understand their rights under Medicaid,
19 including grievance and appeal procedures; and

20 (C) are able to advocate for themselves;

21 (5) collect and maintain statistical information on a
22 regional basis regarding cases ~~[calls]~~ received by the ombudsman
23 ~~[assistance lines]~~ and publish quarterly reports on the
24 commission's Internet website that:

25 (A) list the number of cases ~~[calls]~~ received by
26 region;

27 (B) identify trends in delivery and access

1 problems;

2 (C) identify recurring barriers in the Medicaid
3 system; and

4 (D) indicate other problems identified with
5 Medicaid managed care;

6 (6) assist the state Medicaid office and managed care
7 organizations and providers in identifying and correcting
8 problems, including site visits to affected regions if necessary;

9 (7) meet the needs of all current and future Medicaid
10 managed care recipients, including children receiving dental
11 benefits and other recipients receiving benefits, under the:

12 (A) STAR Medicaid managed care program;

13 (B) STAR+PLUS [~~STAR + PLUS~~] Medicaid managed care
14 program, including the Texas Dual Eligibles Integrated Care
15 Demonstration Project provided under that program;

16 (C) STAR Kids managed care program established
17 under Section [533.00253](#); and

18 (D) STAR Health program; and

19 ~~(8) [incorporate support services for children~~
20 ~~enrolled in the child health plan established under Chapter [62](#),~~
21 ~~Health and Safety Code; and~~

22 [~~9~~] ensure that staff providing support and
23 information services receives sufficient training, including
24 training in the Medicare program for the purpose of assisting
25 recipients who are dually eligible for Medicare and Medicaid, and
26 has sufficient authority to resolve barriers experienced by
27 recipients to health care and long-term services and supports.

1 ~~[(c) The commission's office of the ombudsman, or other~~
2 ~~division of the commission designated by the executive commissioner~~
3 ~~to coordinate the network of entities responsible for providing~~
4 ~~support and information services under this section, must be~~
5 ~~sufficiently independent from other aspects of Medicaid managed~~
6 ~~care to represent the best interests of recipients in problem~~
7 ~~resolution.]~~

8 SECTION 10. Section [531.02251](#), Government Code, is
9 transferred to Subchapter Y, Chapter [531](#), Government Code,
10 redesignated as Section 531.9933, Government Code, and amended to
11 read as follows:

12 Sec. [531.9933](#) [~~[531.02251](#)~~]. OMBUDSMAN FOR BEHAVIORAL HEALTH
13 ACCESS TO CARE. (a) ~~[In this section, "ombudsman" means the~~
14 ~~individual designated as the ombudsman for behavioral health access~~
15 ~~to care.~~

16 ~~[(b) The executive commissioner shall designate an~~
17 ~~ombudsman for behavioral health access to care.~~

18 ~~[(c) The ombudsman is administratively attached to the~~
19 ~~office of the ombudsman for the commission.~~

20 ~~[(d) The commission may use an alternate title for the~~
21 ~~ombudsman in consumer-facing materials if the commission~~
22 ~~determines that an alternate title would be beneficial to consumer~~
23 ~~understanding or access.~~

24 ~~[(e)]~~ The ombudsman for behavioral health serves as a
25 neutral party to help consumers, including consumers who are
26 uninsured or have public or private health benefit coverage, and
27 behavioral health care providers navigate and resolve issues

1 related to consumer access to behavioral health care, including
2 care for mental health conditions and substance use disorders.

3 (b) [~~(f)~~] The ombudsman for behavioral health shall:

4 (1) interact with consumers and behavioral health care
5 providers with concerns or complaints to help the consumers and
6 providers resolve behavioral health care access issues, including:

7 (A) patients of state hospitals as defined by
8 Section 552.0011, Health and Safety Code; and

9 (B) consumers seeking and receiving services
10 through:

11 (i) a local behavioral health authority, as
12 described by Section 533.0356, Health and Safety Code; or

13 (ii) a local mental health authority, as
14 described by Section 533.035, Health and Safety Code;

15 (2) identify, track, and help report potential
16 violations of state or federal rules, regulations, or statutes
17 concerning the availability of, and terms and conditions of,
18 benefits for mental health conditions or substance use disorders,
19 including potential violations related to quantitative and
20 nonquantitative treatment limitations;

21 (3) report concerns, complaints, and potential
22 violations described by Subdivision (2) to the appropriate
23 regulatory or oversight agency;

24 (4) receive and report concerns and complaints
25 relating to inappropriate care or mental health commitment;

26 (5) provide appropriate information to help consumers
27 obtain behavioral health care and understand their rights;

1 (6) develop appropriate points of contact for
2 referrals to other state and federal agencies; and

3 (7) provide appropriate information to help consumers
4 or providers file appeals or complaints with the appropriate
5 entities, including insurers and other state and federal agencies.

6 (c) [~~(g)~~] The ombudsman for behavioral health shall
7 participate in the mental health condition and substance use
8 disorder parity work group established under Section 531.02252 and
9 provide summary reports of concerns, complaints, and potential
10 violations described by Subsection (b)(2) [~~(f)(2)~~] to the work
11 group. This subsection expires September 1, 2021.

12 (d) [~~(h)~~] The Texas Department of Insurance shall appoint a
13 liaison to the ombudsman for behavioral health to receive reports
14 of concerns, complaints, and potential violations described by
15 Subsection (b)(2) [~~(f)(2)~~] from the ombudsman, consumers, or
16 behavioral health care providers.

17 SECTION 11. Subchapter Y, Chapter 531, Government Code, is
18 amended by adding Section 531.9934 to read as follows:

19 Sec. 531.9934. OMBUDSMAN FOR INDIVIDUALS WITH INTELLECTUAL
20 OR DEVELOPMENTAL DISABILITIES. (a) In this section, "local
21 intellectual and developmental disability authority" has the
22 meaning assigned by Section 531.002, Health and Safety Code.

23 (b) The ombudsman for individuals with intellectual or
24 developmental disabilities serves as a neutral party to assist
25 individuals with intellectual or developmental disabilities and
26 the individuals' representatives and providers in navigating and
27 resolving issues related to services for those individuals provided

1 through:

2 (1) the home and community-based services and Texas
3 home living Medicaid waiver programs; and

4 (2) local intellectual and developmental disability
5 authorities.

6 (c) The ombudsman for individuals with intellectual or
7 developmental disabilities shall:

8 (1) interact with individuals with intellectual or
9 developmental disabilities and the individuals' representatives
10 and providers with concerns or complaints to assist the
11 individuals, representatives, providers, and local intellectual
12 and developmental disability authorities in resolving those
13 issues;

14 (2) identify, track, and assist with reporting
15 potential violations of state or federal rules, regulations, or
16 statutes concerning the rights of individuals with intellectual or
17 developmental disabilities and services provided through:

18 (A) the home and community-based services and
19 Texas home living Medicaid waiver programs; and

20 (B) local intellectual and developmental
21 disability authorities;

22 (3) provide appropriate information to assist
23 individuals with intellectual or developmental disabilities in
24 obtaining services and understanding their rights;

25 (4) develop appropriate points of contact for
26 referrals to other state and federal agencies; and

27 (5) provide appropriate information to assist

1 individuals with intellectual or developmental disabilities and
2 the individuals' representatives and providers in filing appeals or
3 complaints with the appropriate entities.

4 SECTION 12. Sections [531.994](#), [531.995](#), [531.996](#), [531.997](#),
5 and [531.998](#), Government Code, are amended to read as follows:

6 Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. If,
7 during the investigation of a complaint, an [~~the~~] ombudsman
8 discovers unreported violations of the commission's, the
9 department's, or a health and human services agency's rules and
10 policies, the ombudsman may [~~shall~~] open a new investigation for
11 each unreported violation.

12 Sec. 531.995. ACCESS TO INFORMATION. The commission, the
13 department, and each health and human services agency shall provide
14 an [~~the~~] ombudsman access to the commission's, department's, or
15 agency's records and personnel that relate to a complaint the
16 ombudsman is reviewing or investigating.

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

22 (b) A communication with an [~~the~~] ombudsman is confidential
23 during an investigation or review of a complaint and remains
24 confidential after the complaint is resolved.

25 (c) The records of an [~~the~~] ombudsman are confidential and
26 must be maintained in a manner that preserves the confidentiality
27 of the records.

1 (d) The disclosure of confidential information to an [~~the~~
2 ombudsman under this section or Section 531.995 does not constitute
3 a waiver of confidentiality. Any information disclosed to the
4 ombudsman under this section or Section 531.995 remains
5 confidential and privileged following disclosure.

6 (e) An [~~The~~] ombudsman is not prohibited from communicating
7 with the commission, the department, or a [~~another~~] health and
8 human services agency regarding confidential information disclosed
9 to the ombudsman by the commission, department, or agency.

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

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

22 Sec. 531.998. REPORT. (a) The health and human services
23 office of the ombudsman shall prepare an annual report that
24 contains:

25 (1) a description of the [~~ombudsman's~~] work of the
26 commission's ombudsman programs;

27 (2) any change made by the commission, the department,

1 or a [~~another~~] health and human services agency in response to a
2 substantiated complaint;

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

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

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

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

13 (b) The report must be submitted to the governor, the
14 lieutenant governor, each standing committee of the legislature
15 with jurisdiction over matters involving the commission, the
16 department, and each health and human services agency, each member
17 of the legislature, the executive commissioner, and the
18 commissioner of the department not later than December 1 of each
19 year. On receipt of the report, [~~the department and~~] the commission
20 shall make the report publicly available on [~~the department's and~~]
21 the commission's Internet website [~~websites~~].

22 SECTION 13. Sections 531.9921 and 531.9941, Government
23 Code, are repealed.

24 SECTION 14. If before implementing any provision of this
25 Act a state agency determines that a waiver or authorization from a
26 federal agency is necessary for implementation of that provision,
27 the agency affected by the provision shall request the waiver or

1 authorization and may delay implementing that provision until the
2 waiver or authorization is granted.

3 SECTION 15. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2019.