

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 261.001, Human Resources Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to read as follows:

(1) "Child" means an individual who is:

(A) 10 years of age or older and younger than 19 years of age; and

(B) placed in or committed to a facility by an order issued by a juvenile court.

(1-a) "Facility" means a post-adjudication secure or nonsecure correctional or detention facility or a post-adjudication residential facility that serves children and that is operated by:

(A) the department, a juvenile board, a juvenile probation department, or other governmental entity; or

(B) a private entity under a contract with a governmental entity.

(1-b) "Independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman.

SECTION 2. Section 261.002, Human Resources Code, is amended to read as follows:

Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children placed in or committed to a facility [~~the department~~], including a child released under supervision before final discharge.

SECTION 3. Section 261.055(b), Human Resources Code, is amended to read as follows:

SENATE VERSION (CS)

SECTION 1. Section 261.001, Human Resources Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Child" means an individual who is:

(A) 10 years of age or older and younger than 19 years of age; and

(B) committed to or placed in a facility described by Section 261.101(f) by an order issued by a juvenile court.

(1-a) "Independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman.

No equivalent provision.

No equivalent provision.

CONFERENCE

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(b) The independent ombudsman shall immediately report to the board, the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the office of the inspector general of the department any particularly serious or flagrant:

- (1) case of abuse or injury of a child placed in or committed to a facility [~~the department~~];
- (2) problem concerning the administration of a facility [~~department~~] program or operation;
- (3) problem concerning the delivery of services in a facility [~~operated by or under contract with the department~~]; or
- (4) interference by an operator of a facility [~~the department~~] with an investigation conducted by the office.

SECTION 4. Section 261.056(a), Human Resources Code, is amended to read as follows:

(a) The operator of a facility [~~department~~] shall allow any child placed in or committed to the facility [~~the department~~] to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

- (1) may be in person, by mail, or by any other means; and
- (2) is confidential and privileged.

No equivalent provision.

SECTION 5. Section 261.057, Human Resources Code, is amended to read as follows:

Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children placed in or committed to a facility [~~the department~~] of:

- (1) how the office may be contacted;

No equivalent provision.

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (2) the purpose of the office; and
- (3) the services the office provides.

SECTION 6. Section 261.058(b), Human Resources Code, is amended to read as follows:

(b) The office and the board shall adopt rules necessary to implement Section 261.060, including rules that establish procedures for an operator of a facility [~~the department~~] to review and comment on reports of the office and for the operator [~~department~~] to expedite or eliminate review of and comment on a report due to an emergency or a serious or flagrant circumstance described by Section 261.055(b).

No equivalent provision.

SECTION 7. Section 261.060(a), Human Resources Code, is amended to read as follows:

(a) The office shall accept, both before and after publication, comments from the board or the operator of a facility, as applicable, concerning the following types of reports published by the office under this chapter:

- (1) the office's quarterly report under Section 261.055(a);
- (2) reports concerning serious or flagrant circumstances under Section 261.055(b); and
- (3) any other formal reports containing findings and making recommendations concerning systemic issues that affect an operator of a facility [~~the department~~].

No equivalent provision.

SECTION 8. Section 261.101(a), Human Resources Code, is amended to read as follows:

- (a) The independent ombudsman shall:

No equivalent provision.

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;
- (2) review complaints filed with the independent ombudsman concerning the actions of an operator of a facility [~~the department~~] and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;
- (3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:
 - (A) a child placed in or committed to a facility [~~the department~~] or the child's family may be in need of assistance from the office; or
 - (B) a systemic issue in the [~~department's~~] provision of services by an operator of a facility is raised by a complaint;
- (4) review or inspect periodically each facility [~~the facilities~~] and the procedures of each facility [~~any institution or residence in which a child has been placed by the department, whether public or private,~~] to ensure that the rights of children are fully observed;
- (5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;
- (6) review court orders as necessary to fulfill its duties;
- (7) recommend changes in any procedure relating to the treatment of children placed in or committed to a facility [~~the department~~];
- (8) make appropriate referrals under any of the duties and powers listed in this subsection;
- (9) supervise assistants who are serving as advocates in their

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

representation of children placed in or committed to a facility ~~[the department]~~ in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints;

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department; and

(12) immediately report the findings of any investigation related to the operation of a ~~[post-adjudication correctional]~~ facility in a county to the chief juvenile probation officer and the juvenile board of the county.

No equivalent provision.

SENATE VERSION (CS)

SECTION 2. Section 261.101, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other provision of this chapter, the powers of the office include:

(1) the inspection of:

(A) a facility operated by the department under Subtitle C;

(B) a post-adjudication secure correctional facility under Section 51.125, Family Code;

(C) a nonsecure correctional facility under Section 51.126, Family Code; and

(D) any other residential facility in which a child adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct is placed by court order; and

(2) the investigation of complaints alleging a violation of the rights of the children committed to or placed in a facility

CONFERENCE

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

SECTION 9. Section 261.102, Human Resources Code, is amended to read as follows:

Sec. 261.102. TREATMENT OF ~~[DEPARTMENT]~~ EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. The operator of a facility ~~[department]~~ may not discharge or in any manner discriminate or retaliate against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

described by this subsection.

No equivalent provision.

SECTION 10. Section 261.104, Human Resources Code, is amended to read as follows:

Sec. 261.104. MEMORANDUM OF UNDERSTANDING.
(a) The office and an operator of a facility ~~[the department]~~ shall enter into a memorandum of understanding concerning:
(1) the most efficient manner in which to share information with one another; and
(2) the procedures for handling overlapping monitoring duties and activities performed by the office and the department or a county.
(b) The memorandum of understanding entered into under Subsection (a), at a minimum, must:
(1) address the interaction of the office with that portion of the department that conducts an internal audit under Section 203.013;
(2) address communication between the office and the operator of a facility ~~[department]~~ concerning individual situations involving children placed in or committed to the facility ~~[department]~~ and how those situations will be

No equivalent provision.

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

documented and handled;

(3) contain guidelines on the office's role in relevant working groups and policy development decisions at the department or with the county;

(4) ensure opportunities for sharing information between the office and the department or county for the purposes of assuring quality and improving programming within the facility ~~[department]~~; and

(5) preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from the operator of a facility ~~[department]~~ and the ~~[department]~~ staff of the facility and to report the information to the board and the governor.

SECTION 11. Sections 261.151(a) and (c), Human Resources Code, are amended to read as follows:

(a) The independent ombudsman has access to the ~~[department's]~~ records of the operator of a facility relating to the children placed in or committed to the facility ~~[department]~~.

(c) A local law enforcement agency shall allow the independent ombudsman access to its records relating to any child in the care or custody of an operator of a facility ~~[the department]~~.

No equivalent provision.

SECTION 12. Section 261.152, Human Resources Code, is amended to read as follows:

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. The independent ombudsman shall have access to the records of a private entity that relate to a child placed in or

No equivalent provision.

House Bill 3648
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

committed to a facility [~~the department~~].

SECTION 13. The following provisions of the Human Resources Code are repealed:

(1) Section 261.101(e), as added by Section 11(b), Chapter 854 (S.B. 1149), Acts of the 84th Legislature, Regular Session, 2015; and

(2) Section 261.101(e), as amended by Chapter 962 (S.B. 1630), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 14. This Act takes effect September 1, 2019.

SECTION 3. Same as House version.

SECTION 4. Same as House version.