

By: Noble

H.B. No. 2532

A BILL TO BE ENTITLED

AN ACT

relating to investigating and responding to complaints filed against the Department of Family and Protective Services.

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

SECTION 1. Section 40.0041, Human Resources Code, is amended to read as follows:

Sec. 40.0041. COMPLAINT PROCESS. (a) Complaints against the Department of Family and Protective services by members of the public, consumers, department employees, and service recipients in connection with any investigation or action taken by the department shall be received and investigated by the Health and Human Services Commission Office of Inspector General. The executive commissioner of the Health and Human Services Commission, in consultation with the office of the inspector general and the commissioner of the Department of Family and Protective Services, by rule shall develop and implement a uniform process for receiving and resolving complaints against the department throughout the state. The process shall include:

(1) statewide procedures through which the public, consumers, department employees, and service recipients are informed:

(A) of the right to make a complaint against the department, including the mailing addresses and telephone numbers of appropriate ~~department~~ office of inspector general personnel

1 responsible for receiving complaints and providing related
2 assistance; and

3 (B) of the ~~department's~~ office's procedures for
4 resolving a complaint, including the right to appeal a decision
5 made at the local level;

6 (2) development and statewide distribution of a form
7 or telephone system that may be used to make a complaint;

8 (3) a requirement that the ~~department~~ office of
9 inspector general provide information by mail or telephone
10 regarding the ~~department's~~ procedures for investigating and
11 resolving a complaint to each person who makes a complaint; and

12 (4) a requirement that the ~~department~~ office of
13 inspector general provide status information via phone, email, or
14 other written communication at least quarterly to a person with a
15 pending complaint against the department, unless the information
16 would jeopardize an undercover investigation.

17 (a-1) Any of the functions in Section (a) previously handled
18 by the department's Office of Consumer Relations or other entity
19 housed within the department shall be fully transferred to the
20 Health and Human Services Commission's office of inspector general.
21 Within 3 months after the effective date of this Act, the
22 commissioner of the Department of Family and Protective Services
23 shall transfer all department funds and resources, including any
24 and all applicable information technology, allocated for
25 performing the duties described in Section (a) to the Health and
26 Human Services Commission Office of Inspector General. The
27 commissioner of the Department of Family and Protective Services,

1 in consultation with the executive commissioner of the Health and
2 Human Services Commission and office of inspector general, shall
3 adopt any rules necessary for achieving this purpose.

4 (b) In addition to other appropriate methods, the
5 department may provide the information specified by Subsection
6 (a)(1):

7 (1) on each registration form, application, or written
8 contract for services of a person regulated by the department;

9 (2) on a sign prominently displayed in the place of
10 business of each person regulated by the department; or

11 (3) in a bill for service provided by a person
12 regulated by the department.

13 (c) In performing the functions described in Section (a),
14 the office of the inspector general shall have the authority to:

15 (1) make recommendations for corrective and remedial
16 actions to be taken by the department in connection with individual
17 complaints and enforce compliance with those recommendations;

18 (2) audit the department in connection with a
19 complaint investigation;

20 (3) obtain any and all department data necessary for
21 completing an investigation; and

22 (4) open any investigation it deems necessary for
23 ensuring department or agency compliance with law, procedure, or
24 policy.

25 (c-1) the department shall fully cooperate with any
26 investigation and provide data or other information requested by
27 the office of inspector general in connection with an investigation

1 within 14 business days of receipt of the request.

2 (~~e~~) The ~~department~~ office of inspector general shall keep
3 an information file about each complaint made against the
4 department that the ~~department~~ office has authority to resolve.

5 (~~e~~) The executive commissioner of the Health and Human
6 Services Commission, in consultation with the inspector general and
7 the commissioner of the Department of Family and Protective
8 Services, shall develop a consistent, statewide process for
9 addressing an appeal by a person dissatisfied with the resolution
10 of a complaint at the regional level. ~~The process shall include an~~
11 ~~opportunity for appeal of a complaint without the participation of~~
12 ~~the department's ombudsman office.~~

13 (~~e~~) The ~~department~~ office of inspector general shall
14 develop and maintain a centralized tracking system to gather
15 information concerning all complaints made against the department
16 throughout the state. The ~~department~~ office of inspector general
17 shall require its personnel to provide information regarding each
18 complaint for inclusion in records maintained under the tracking
19 system at the ~~department's~~ Health and Human Services Commission's
20 state headquarters, regardless of the location or level at which
21 the complaint is initiated or resolved. The ~~department shall~~
22 ~~require at least the~~ following minimum information ~~to~~ shall be
23 maintained for each complaint:

- 24 (1) the date the complaint is received;
25 (2) the name of the person making the complaint;
26 (3) the subject matter of the complaint;
27 (4) a record of all persons contacted by the

1 ~~department~~ office of inspector general in relation to the
2 complaint;

3 (5) a summary of the results of the review or
4 investigation of the complaint; and

5 (6) for each complaint determined by the ~~department~~
6 office of inspector general to require no corrective action, an
7 explanation of the reason that the complaint was closed without
8 action.

9 (fg) The ~~department~~ office of inspector general shall
10 periodically prepare and deliver reports to the executive
11 commissioner of the Health and Human Services Commission, ~~and~~ the
12 commissioner of the Department of Family and Protective Services,
13 the Office of the Governor, and the Chairs of the House Human
14 Services Committee and Senate Health and Human Services Committee
15 regarding the number, type, and resolution of complaints made in
16 the state against the department.

17 (gh) The department shall cooperate with the ombudsman for
18 children and youth in foster care to create consequences, based on
19 the circumstances of the complaint and the severity of the
20 retaliation, for any person who is found to have retaliated against
21 a child or youth in the conservatorship of the department because of
22 a complaint made to the ombudsman.

23 (hi) The executive commissioner shall adopt rules requiring
24 all residential child-care facilities in which children and youth
25 in the conservatorship of the department are placed to display
26 information about the ombudsman for children and youth in foster
27 care and the process for filing a complaint with the ombudsman in a

1 location that is easily accessible and offers maximum privacy to
2 the children and youth residing at the facility.

3 SECTION 2. Section [531.102](#), Government Code, is amended to
4 read as follows:

5 Sec. 531.102. OFFICE OF INSPECTOR GENERAL. (a) The
6 commission's office of inspector general is responsible for the
7 prevention, detection, audit, inspection, review, and
8 investigation of fraud, waste, and abuse in the provision and
9 delivery of all health and human services in the state, including
10 services through any state-administered health or human services
11 program that is wholly or partly federally funded or services
12 provided by the Department of Family and Protective Services, and
13 the enforcement of state law relating to the provision of those
14 services. The commission's office of inspector general shall also
15 be responsible for receiving, investigating, and responding to
16 complaints filed by members of the public, consumers, department
17 employees, and service recipients against the Department of Family
18 and Protective Services in accordance with Section [40.0041](#), Human
19 Resources Code. The commission may obtain any information or
20 technology necessary to enable the office to meet its
21 responsibilities under this subchapter or other law.