

BILL ANALYSIS

S.B. 213
By: Menéndez
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties see a benefit in expanding the duties of the ombudsman for children and youth in foster care such that the ombudsman serves as the ombudsman for the Department of Family and Protective Services. S.B. 213 seeks to provide for such an expansion.

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

S.B. 213 amends the Government Code to rename the ombudsman for children and youth in foster care as the ombudsman for the Department of Family and Protective Services (DFPS) and to transfer the responsibility for appointing the ombudsman from the executive commissioner of the Health and Human Services Commission to the governor.

S.B. 213 prohibits a person from serving as ombudsman if the person or the person's spouse is employed by or participates in the management of a business entity or other organization receiving funds from DFPS; owns or controls, directly or indirectly, any interest in a business entity or other organization receiving funds from DFPS; or is required to register as a lobbyist because of the person's activities for compensation on behalf of a profession related to the operation of DFPS.

S.B. 213 establishes that the ombudsman serves as a neutral party in assisting persons with a complaint against DFPS regarding case-specific activities of the programs of DFPS, including adult protective services, child protective services, child-care licensing, and statewide intake, and includes any person who files a complaint with DFPS with regard to the requirement that the ombudsman develop and implement statewide procedures to receive, review, and take certain action on complaints from certain parties. The bill includes the promotion of awareness of the ombudsman among the public, family members and caretakers of children in DFPS conservatorship, and facilities licensed by DFPS as a purpose of the ombudsman's annual outreach plan and specifies that the plan includes how the office may be contacted, the purpose of the office, and the services the office provides. The bill requires the ombudsman to monitor and evaluate DFPS's corrective actions taken in response to a recommendation by the ombudsman. The bill requires the ombudsman's final determination regarding a complaint in an applicable report to include a determination of whether there was wrongdoing or negligence by DFPS or a DFPS agent or whether the complaint was frivolous and without merit. The bill

requires the ombudsman, if a determination is made that there was wrongdoing or negligence, to recommend corrective actions to be taken by DFPS. The bill authorizes the ombudsman to attend any judicial proceeding related to a complaint filed with the office.

S.B. 213 authorizes a child-placing agency responsible for a foster child to refer a dispute regarding the child's placement or the permanency plan for the child to the ombudsman by filing a complaint with the ombudsman that must include a clear explanation of the dispute and the requested remedy. The bill requires the ombudsman to notify the court with jurisdiction over the child's case of any investigation of a complaint so filed.

S.B. 213 includes a DFPS employee and any person beyond a child or youth in DFPS conservatorship among those against whom DFPS or another health and human services agency is prohibited from retaliating if such persons in good faith make a complaint to the ombudsman or against any person who cooperates with the ombudsman in an investigation.

S.B. 213 includes the governor, the lieutenant governor, each standing committee of the legislature with jurisdiction over matters involving DFPS, and each member of the legislature among those to whom the ombudsman's annual report must be submitted.

S.B. 213 requires the commissioner of DFPS to abolish the office of consumer affairs in DFPS and to transfer any DFPS funds and resources allocated to the office of consumer affairs to the ombudsman for DFPS.

S.B. 213 takes effect only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 85th Legislature.

EFFECTIVE DATE

September 1, 2017.