

BILL ANALYSIS

C.S.S.B. 1535
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls for the state to implement a complaint process that better protects the rights of children and youth in the conservatorship of the Department of Family and Protective Services. C.S.S.B. 1535 seeks to provide for such a complaint process whereby the child or youth may file a complaint directly with the ombudsman for the Health and Human Services Commission.

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. 1535 amends the Government Code to authorize a child or youth in the conservatorship of the Department of Family and Protective Services (DFPS) to file a complaint directly with the ombudsman for the Health and Human Services Commission (HHSC), regardless of whether the child or youth is served directly by DFPS or by a single source continuum contractor providing community-based care services for DFPS.

C.S.S.B. 1535 requires the ombudsman, not later than the fifth day of each month, to compile and provide to DFPS and the HHSC child care licensing division a written report regarding the investigations of complaints completed during the preceding month. The bill requires the report, for each complaint investigated, to include a summary of the complaint, the ombudsman's final determination, and any corrective action recommended by the ombudsman.

C.S.S.B. 1535 requires DFPS or the child care licensing division, as applicable, to provide written notice to the ombudsman on whether DFPS or the division adopted or rejected any of the ombudsman's recommended corrective actions regarding the ombudsman's determination of any wrongdoing or negligence of DFPS or a DFPS agent. The bill requires DFPS or the division to include in the notice the reason for rejecting a recommended corrective action, if one is rejected.

C.S.S.B. 1535 amends the Family Code to make it the policy of the 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 the notification of the outcome of any of the following investigations in which the child is involved:

- an abuse or neglect investigation conducted by DFPS;

- a minimum standard investigation conducted by HHSC; or
- an investigation of a complaint to the division of the ombudsman for children and youth in foster care.

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. 1535 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute does not include provisions relating to a complaint process for a child or youth in DFPS conservatorship who is served by a single source continuum contractor. The bill includes a provision that authorizes such a child or youth instead to file a complaint with the division of the ombudsman for children and youth in foster care, regardless of whether the child or youth is served directly by DFPS or by such a contractor.

The substitute includes a provision requiring the ombudsman to compile and provide to DFPS and the child care licensing division of HHSC a written report regarding completed investigations.

The substitute revises the requirement for DFPS and the licensing division to provide written notice to the ombudsman on any decision regarding the ombudsman's recommended corrective actions to require only DFPS or the licensing division, as applicable, to provide such notice.