

SUBJECT: Transferring operation of the Office of Consumer Affairs for DFPS

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White

0 nays

WITNESSES: For — Katherine Barillas, One Voice Texas; Sarah Crockett, Texas CASA; and five individuals (*Registered, but did not testify*: Marian Jane, Elizabeth Jurenovich, and Chavon Withrow, Abrazo Adoption Associates; Lee Spiller, Citizens Commission on Human Rights; Reyna Rutan, Foster Youth Leadership Council; Nicole Kidd, Natalie Munlin and Erskine McDaniel, Intended Parents' Rights; Will Francis, National Association of Social Workers-Texas Chapter; Judy Powell, Parent Guidance Center; Josette Saxton, Texans Care for Children; Connie Gray and Daryn Watson, Texas Adoptee Rights; Andrew Homer, Texas CASA; Douglas Smith, Texas Criminal Justice Coalition; Steve Bresnen, Texas Family Law Foundation; Yannis Banks, Texas NAACP; Casey Smith, United Ways of Texas; and 16 individuals)

Against — None

On — John Specia, Department of Family and Protective Services; (*Registered, but did not testify*: Elisa Hendricks, Health and Human Services Commission)

BACKGROUND: Human Resources Code, sec. 40.0041 requires the Department of Family and Protective Services (DFPS) to maintain a system to receive and resolve complaints against DFPS from the public, consumers, and service recipients. DFPS may elect to promote this complaint system on registration forms for services regulated by DFPS, on a sign in a place of business regulated by DFPS, or in a bill for service provided by a person regulated by DFPS.

Complaints must be tracked through a centralized system, and records of

these complaints are required to be maintained at DFPS' state headquarters. Periodically, this information must be delivered by report to the executive director of DFPS. To satisfy these requirements, DFPS operates the Office of Consumer Affairs to investigate complaints.

DIGEST:

CSHB 1371 would transfer operation of the Office of Consumer Affairs (OCA) from the Department of Family and Protective Services (DFPS) to the Health and Human Services Commission (HHSC). This would include all personnel, funding, records, and authority currently allocated to the OCA within DFPS. The bill also would amend many of the responsibilities and duties of the OCA.

Duties. The OCA would develop a statewide system to receive and address complaints against DFPS. It would file reports with DFPS containing the OCA's final determination and actions to be taken after the conclusion of a complaint investigation. Also, if the OCA discovered unreported violations while completing a different investigation, the OCA would be required to open up new investigations for each violation discovered.

Confidential communications. The bill would require DFPS to permit all employees, children under DFPS conservatorship, and adults receiving protective services to communicate with the OCA, and would provide that these communications, regardless of means, be kept confidential and privileged. The bill also would require the OCA to keep its records confidential, unless a court order on a showing of good cause was issued to disclose the records. The office would be permitted to make reports public following the completion of an investigation, but the bill would require that all names in the report be redacted and that this information would remain confidential.

Protection from retaliation. The bill would prohibit retaliation by DFPS against any DFPS employee or anyone else who in good faith made a complaint or request for information to the OCA or cooperates with the OCA in an investigation. The bill would require the OCA to collaborate with every division of DFPS to develop tiered consequences for retaliating

against a child under DFPS conservatorship based on the severity of the retaliation and the extent of the offense underlying the complaint.

Promotion of the OCA. The OCA at HHSC would be required annually to develop and implement an outreach plan to promote awareness of the office and its services, including ensuring that all residential facilities in which children in DFPS conservatorships live had information displayed about the OCA and how to file a complaint.

Reporting requirements. The bill would require the OCA to file a report by October 1 each year with the executive commissioner of HHSC and commissioner of DFPS outlining the OCA's work, including, among other details, a summary of each complaint the office received and any trends in the nature of inquiries or complaints.

The bill would take effect September 1, 2015.

NOTES:

The Legislative Budget Board estimates a negative fiscal impact of \$1.1 million in general revenue through fiscal 2016-17, mainly in OCA staff and associated costs.