

BILL ANALYSIS

Senate Research Center

S.B. 213
By: Menéndez
Health & Human Services
6/2/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 213 creates an ombudsman for the Department of Family and Protective Services (DFPS). This office will serve as a neutral party to assist individuals with complaints within DFPS.

The committee substitute to S.B. 213 expands the current ombudsman for children and youth in foster care to serve as the ombudsman for DFPS. S.B. 213 also transfers the current Office of Consumer Affairs to the proposed ombudsman for DFPS. Further, S.B. 213 removes subpoena power from the ombudsman for DFPS. (Original Author's / Sponsor's Statement of Intent)

S.B. 213 amends current law relating to the office of ombudsman for the Department of Family and Protective Services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter Y, Chapter 531, Government Code, to read as follows:

SUBCHAPTER Y. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

SECTION 2. Amends Section 531.991(2), Government Code, to redefine "ombudsman."

SECTION 3. Amends the heading to Section 531.992, Government Code, to read as follows:

Sec. 531.992. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES.

SECTION 4. Amends Section 531.992, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the governor to appoint an ombudsman for the Department of Family and Protective Services (DFPS) to serve at the will of the governor, rather than requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to appoint an ombudsman for children and youth in foster care to serve at the will of the executive commissioner.

(d) Prohibits the ombudsman from using the name or any logo of DFPS on any forms or other materials produced and distributed by the ombudsman.

SECTION 5. Amends Subchapter Y, Chapter 531, Government Code, by adding Section 531.9921, as follows:

Sec. 531.9921. CONFLICT OF INTEREST. Prohibits a person from serving as ombudsman if the person or the person's spouse meets certain conditions.

SECTION 6. Amends Section 531.993, Government Code, as follows:

Sec. 531.993. DUTIES OF OMBUDSMAN. (a) Provides that the ombudsman serves as a neutral party in assisting certain individuals, including 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.

(b) Requires the ombudsman to:

(1) develop and implement statewide procedures to:

(A) receive complaints from children and youth in the conservatorship of DFPS and other persons with a complaint against DFPS, rather than receive complaints from children and youth in the conservatorship of DFPS;

(B) through (D) makes no changes to these paragraphs;

(E) ensure that DFPS and any person or a child or youth in the conservatorship of DFPS who files a complaint with the ombudsman are informed of the results of the ombudsman's investigation of the complaint, including whether the ombudsman was able to substantiate the person's, child's, or youth's complaint, rather than ensure that DFPS and a child or youth in the conservatorship of DFPS who files a complaint with the ombudsman are informed of the results of the ombudsman's investigation of the complaint, including whether the ombudsman was able to substantiate the child's or youth's complaint;

(2) collaborate with DFPS to develop and implement an annual outreach plan to promote awareness of the ombudsman among the public, children and youth in the conservatorship of DFPS, family members and caretakers of those children, and facilities licensed by DFPS and that includes certain content, rather than collaborate with DFPS to develop and implement an annual outreach plan to promote awareness of the ombudsman among children and youth in the conservatorship of DFPS;

(3) makes no changes to this subdivision;

(4) and (5) makes nonsubstantive changes;

(6) monitor and evaluate DFPS's corrective actions taken in response to a recommendation by the ombudsman.

(c) Requires that the ombudsman's final determination in a report described by Subsection (b)(3) (relating to the ombudsman issuing and filing a report that contains the ombudsman's final determination regarding a complaint and any recommended corrective actions) include a determination of whether there was wrongdoing or negligence by DFPS or an agent of DFPS or whether the complaint was frivolous and without merit. Requires the ombudsman, if the ombudsman determines there was wrongdoing or negligence, to recommend corrective actions to be taken by DFPS.

(d) Authorizes the ombudsman to attend any judicial proceeding related to a complaint filed with the Office of Health Coordination and Consumer Services.

SECTION 7. Amends Subchapter Y, Chapter 531, Government Code, by adding Section 531.9931, as follows:

Sec. 531.9931. DIVISION OF OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE. (a) Provides that the division of the ombudsman for children and youth in foster care is created within the office of the ombudsman for certain purposes.

(b) Requires that the call, if a child or youth in the conservatorship of DFPS contacts the ombudsman by telephone call to report a complaint under this subchapter, be transferred directly to a person employed by the division of the ombudsman created under this section.

SECTION 8. Amends Subchapter Y, Chapter 531, Government Code, by adding Section 531.9941, as follows:

Sec. 531.9941. DISPUTES REGARDING FOSTER CHILDREN. (a) 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.

(b) Requires that the complaint filed with the ombudsman include a clear explanation of the dispute and the requested remedy.

(c) Requires the ombudsman to notify the court with jurisdiction over the child's case of any investigation of a complaint filed under this subchapter.

SECTION 9. Amends Section 531.997, Government Code, to include a DFPS employee or any other person who in good faith makes a complaint to the ombudsman or against any person who cooperates with the ombudsman in an investigation to individuals whom DFPS or another health and human services agency is prohibited from retaliating against.

SECTION 10. Amends Section 531.998(b), Government Code, to require that the annual report prepared by the ombudsman be submitted to the governor, the lieutenant governor, each standing committee of the legislature with jurisdiction over matters involving DFPS, each member of the legislature, the executive commissioner, and the commissioner of DFPS (commissioner), rather than the executive commissioner and the commissioner, not later than December 1 of each year.

SECTION 11. Requires the commissioner, as soon as practicable after the effective date of this Act, to abolish the Office of Consumer Affairs in DFPS and transfer any DFPS funds and resources allocated to the Office of Consumer Affairs to the ombudsman for DFPS created under Subchapter Y, Chapter 531, Government Code, as amended by this Act.

SECTION 12. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 13. Effective date: September 1, 2017.