

1-1 By: Menéndez S.B. No. 213  
 1-2 (In the Senate - Filed November 14, 2016; January 25, 2017,  
 1-3 read first time and referred to Committee on Health & Human  
 1-4 Services; April 24, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 April 24, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 213 By: Uresti

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the office of ombudsman for the Department of Family and  
 1-22 Protective Services.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Subchapter Y, Chapter 531,  
 1-25 Government Code, is amended to read as follows:

1-26 SUBCHAPTER Y. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND  
 1-27 PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~]

1-28 SECTION 2. Section 531.991(2), Government Code, is amended  
 1-29 to read as follows:

1-30 (2) "Ombudsman" means the individual appointed as the  
 1-31 ombudsman for the Department of Family and Protective Services  
 1-32 [~~children and youth in foster care~~].

1-33 SECTION 3. The heading to Section 531.992, Government Code,  
 1-34 is amended to read as follows:

1-35 Sec. 531.992. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND  
 1-36 PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~].

1-37 SECTION 4. Section 531.992(a), Government Code, is amended  
 1-38 to read as follows:

1-39 (a) The governor [~~executive commissioner~~] shall appoint an  
 1-40 ombudsman for the Department of Family and Protective Services  
 1-41 [~~children and youth in foster care~~] to serve at the will of the  
 1-42 governor [~~executive commissioner~~].

1-43 SECTION 5. Subchapter Y, Chapter 531, Government Code, is  
 1-44 amended by adding Section 531.9921 to read as follows:

1-45 Sec. 531.9921. CONFLICT OF INTEREST. A person may not serve  
 1-46 as ombudsman if the person or the person's spouse:

1-47 (1) is employed by or participates in the management  
 1-48 of a business entity or other organization receiving funds from the  
 1-49 department;

1-50 (2) owns or controls, directly or indirectly, any  
 1-51 interest in a business entity or other organization receiving funds  
 1-52 from the department; or

1-53 (3) is required to register as a lobbyist under  
 1-54 Chapter 305 because of the person's activities for compensation on  
 1-55 behalf of a profession related to the operation of the department.

1-56 SECTION 6. Section 531.993, Government Code, is amended to  
 1-57 read as follows:

1-58 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) The ombudsman  
 1-59 serves as a neutral party in assisting:

1-60 (1) children and youth in the conservatorship of the

2-1 department with complaints regarding issues within the authority of  
2-2 the department or another health and human services agency; and  
2-3 (2) persons with a complaint against the department  
2-4 regarding case-specific activities of the programs of the  
2-5 department, including adult protective services, child protective  
2-6 services, child-care licensing, and statewide intake.

2-7 (b) The ombudsman shall:  
2-8 (1) develop and implement statewide procedures to:  
2-9 (A) receive complaints from children and youth in  
2-10 the conservatorship of the department and other persons with a  
2-11 complaint against the department;

2-12 (B) review complaints filed with the ombudsman  
2-13 and take appropriate action, including:

2-14 (i) conducting an investigation into  
2-15 individual complaints that allege violations of department or  
2-16 agency procedure or policy or other violations; and

2-17 (ii) referring to department or agency  
2-18 management for resolution any trends or systemic issues identified  
2-19 in complaints;

2-20 (C) provide any necessary assistance to children  
2-21 and youth in the conservatorship of the department in making  
2-22 complaints and reporting allegations of abuse or neglect to the  
2-23 department;

2-24 (D) maintain the confidentiality of:  
2-25 (i) the ombudsman's communications and  
2-26 records;

2-27 (ii) records of another person that have  
2-28 been provided to the ombudsman; and

2-29 (iii) communications of another person with  
2-30 the ombudsman; and

2-31 (E) ensure that the department and any person or  
2-32 a child or youth in the conservatorship of the department who files  
2-33 a complaint with the ombudsman are informed of the results of the  
2-34 ombudsman's investigation of the complaint, including whether the  
2-35 ombudsman was able to substantiate the person's, child's, or youth's  
2-36 complaint;

2-37 (2) collaborate with the department to develop and  
2-38 implement an annual outreach plan to promote awareness of the  
2-39 ombudsman among the public, children and youth in the  
2-40 conservatorship of the department, family members and caretakers of  
2-41 those children, and facilities licensed by the department and that  
2-42 includes:

2-43 (A) how the office may be contacted;

2-44 (B) the purpose of the office; and

2-45 (C) the services the office provides;

2-46 (3) issue and file with the department and any  
2-47 applicable health and human services agency a report that contains  
2-48 the ombudsman's final determination regarding a complaint and any  
2-49 recommended corrective actions to be taken as a result of the  
2-50 complaint;

2-51 (4) establish a secure form of communication with any  
2-52 individual who files a complaint with the ombudsman; ~~and~~

2-53 (5) collaborate with the department to identify  
2-54 consequences for any retaliatory action related to a complaint  
2-55 filed with the ombudsman, in accordance with Section 40.0041(g),  
2-56 Human Resources Code; and

2-57 (6) monitor and evaluate the department's corrective  
2-58 actions taken in response to a recommendation by the ombudsman.

2-59 (c) The ombudsman's final determination in a report  
2-60 described by Subsection (b)(3) must include a determination of  
2-61 whether there was wrongdoing or negligence by the department or an  
2-62 agent of the department or whether the complaint was frivolous and  
2-63 without merit. If the ombudsman determines there was wrongdoing or  
2-64 negligence, the ombudsman shall recommend corrective actions to be  
2-65 taken by the department.

2-66 (d) The ombudsman may attend any judicial proceeding  
2-67 related to a complaint filed with the office.

2-68 SECTION 7. Subchapter Y, Chapter 531, Government Code, is  
2-69 amended by adding Section 531.9941 to read as follows:

3-1 Sec. 531.9941. DISPUTES REGARDING FOSTER CHILDREN. (a) A  
3-2 child-placing agency responsible for a foster child may refer a  
3-3 dispute regarding the child's placement or the permanency plan for  
3-4 the child to the ombudsman by filing a complaint with the ombudsman.

3-5 (b) The complaint filed with the ombudsman must include a  
3-6 clear explanation of the dispute and the requested remedy.

3-7 (c) The ombudsman shall notify the court with jurisdiction  
3-8 over the child's case of any investigation of a complaint filed  
3-9 under this subchapter.

3-10 SECTION 8. Section 531.997, Government Code, is amended to  
3-11 read as follows:

3-12 Sec. 531.997. RETALIATION PROHIBITED. The department or  
3-13 another health and human services agency may not retaliate against  
3-14 a department employee, a child or youth in the conservatorship of  
3-15 the department, or any other person who in good faith makes a  
3-16 complaint to the ombudsman or against any person who cooperates  
3-17 with the ombudsman in an investigation.

3-18 SECTION 9. Section 531.998(b), Government Code, is amended  
3-19 to read as follows:

3-20 (b) The report must be submitted to the governor, the  
3-21 lieutenant governor, each standing committee of the legislature  
3-22 with jurisdiction over matters involving the department, each  
3-23 member of the legislature, the executive commissioner, and the  
3-24 commissioner of the department not later than December 1 of each  
3-25 year. On receipt of the report, the department and the commission  
3-26 shall make the report publicly available on the department's and  
3-27 the commission's Internet websites.

3-28 SECTION 10. As soon as practicable after the effective date  
3-29 of this Act, the commissioner of the Department of Family and  
3-30 Protective Services shall:

3-31 (1) abolish the office of consumer affairs in the  
3-32 department; and

3-33 (2) transfer any department funds and resources  
3-34 allocated to the office of consumer affairs to the ombudsman for the  
3-35 Department of Family and Protective Services created under  
3-36 Subchapter Y, Chapter 531, Government Code, as amended by this Act.

3-37 SECTION 11. This Act takes effect only if a specific  
3-38 appropriation for the implementation of the Act is provided in a  
3-39 general appropriations act of the 85th Legislature.

3-40 SECTION 12. This Act takes effect September 1, 2017.

3-41 \* \* \* \* \*