

1-1 By: Kolkhorst S.B. No. 1101  
 1-2 (In the Senate - Filed February 25, 2019; March 7, 2019,  
 1-3 read first time and referred to Committee on Health & Human  
 1-4 Services; April 11, 2019, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
 1-6 April 11, 2019, 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. 1101 By: Kolkhorst

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

1-21 relating to the consolidation of ombudsman programs administered by  
 1-22 the Health and Human Services Commission.

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. HEALTH AND HUMAN SERVICES OMBUDSMAN PROGRAMS [FOR  
 1-27 ~~THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES~~]

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

1-30 Sec. 531.991. DEFINITIONS. In this subchapter:

1-31 (1) "Complaint" means any expression of  
 1-32 dissatisfaction by a consumer about a program or service of the  
 1-33 health and human services system or of the department.

1-34 (2) "Consumer" means:  
 1-35 (A) an applicant or client of a program of the  
 1-36 health and human services system;

1-37 (B) the applicant's or client's legally  
 1-38 authorized representative;

1-39 (C) a member of the public seeking information  
 1-40 about a program of the health and human services system; or

1-41 (D) a child or youth in the conservatorship of  
 1-42 the department.

1-43 (3) "Department" means the Department of Family and  
 1-44 Protective Services.

1-45 (4) ~~(2)~~ "Ombudsman" means the individual appointed  
 1-46 as the ombudsman for an ombudsman program [the Department of Family  
 1-47 and Protective Services].

1-48 (5) "Ombudsman program" means an ombudsman program  
 1-49 administered by the commission under this subchapter.

1-50 (6) "Retaliation" means a harmful action taken because  
 1-51 of, or substantially motivated by, reprisal or revenge in response  
 1-52 to a legally protected activity, including making a good faith  
 1-53 complaint.

1-54 (7) "Substantiated complaint" means a complaint for  
 1-55 which research clearly indicates:

1-56 (A) the policy of a program of the health and  
 1-57 human services system or the department was violated; or

1-58 (B) the health and human services system's  
 1-59 expectations were not met.

1-60 SECTION 3. Subchapter Y, Chapter 531, Government Code, is

2-1 amended by adding Section 531.9912 to read as follows:  
2-2 Sec. 531.9912. ESTABLISHMENT OF OMBUDSMAN PROGRAMS. The  
2-3 executive commissioner shall establish the following ombudsman  
2-4 programs:

2-5 (1) the health and human services office of the  
2-6 ombudsman in accordance with Section 531.9915;

2-7 (2) the ombudsman for children and youth in foster  
2-8 care in accordance with Section 531.9931;

2-9 (3) the ombudsman for managed care in accordance with  
2-10 Section 531.9932;

2-11 (4) the ombudsman for behavioral health access to care  
2-12 in accordance with Section 531.9933; and

2-13 (5) the ombudsman for individuals with intellectual or  
2-14 developmental disabilities in accordance with Section 531.9934.

2-15 SECTION 4. Section 531.0171, Government Code, is  
2-16 transferred to Subchapter Y, Chapter 531, Government Code,  
2-17 redesignated as Section 531.9915, Government Code, and amended to  
2-18 read as follows:

2-19 Sec. 531.9915 [531.0171]. OFFICE OF OMBUDSMAN. (a) The  
2-20 executive commissioner shall establish the commission's office of  
2-21 the ombudsman with authority and responsibility over the health and  
2-22 human services system in performing the following functions:

2-23 (1) providing consumer dispute resolution services  
2-24 for the health and human services system;

2-25 (2) performing consumer protection and advocacy  
2-26 functions related to health and human services, including assisting  
2-27 a consumer [~~or other interested person~~] with:

2-28 (A) raising a matter within the health and human  
2-29 services system that the consumer [~~person~~] feels is being ignored;  
2-30 and

2-31 (B) obtaining information regarding a filed  
2-32 complaint; and

2-33 (3) collecting consumer inquiry and complaint data  
2-34 related to the health and human services system.

2-35 (b) The office of the ombudsman does not have the authority  
2-36 to process case actions or overturn a decision by the department or  
2-37 a program of the health and human services system [~~provide a~~  
2-38 ~~separate process for resolving complaints or appeals~~].

2-39 (c) The executive commissioner shall develop a standard  
2-40 process for tracking and reporting received inquiries and  
2-41 complaints within the health and human services system. The  
2-42 process must provide for the centralized tracking of inquiries and  
2-43 complaints submitted to field, regional, or other local health and  
2-44 human services system offices, including vendors contracted to  
2-45 provide services on behalf of a program of the health and human  
2-46 services system.

2-47 (d) Using the process developed under Subsection (c), the  
2-48 office of the ombudsman shall collect inquiry and complaint data  
2-49 from all offices, agencies, divisions, and other entities within  
2-50 the health and human services system, including vendors contracted  
2-51 to provide services on behalf of a program of the health and human  
2-52 services system. To assist with the collection of data under this  
2-53 subsection, the office may access any system or process for  
2-54 recording inquiries and complaints used or maintained within the  
2-55 health and human services system.

2-56 (e) The office of the ombudsman must be sufficiently  
2-57 independent from programs of the health and human services system  
2-58 to perform the ombudsman's duties outlined in this subchapter.

2-59 SECTION 5. Sections 531.992 and 531.993, Government Code,  
2-60 are amended to read as follows:

2-61 Sec. 531.992. APPOINTMENT OF OMBUDSMAN [~~FOR THE DEPARTMENT~~  
2-62 ~~OF FAMILY AND PROTECTIVE SERVICES~~]. (a) The executive  
2-63 commissioner [~~governor~~] shall appoint an ombudsman for each  
2-64 ombudsman program [~~the Department of Family and Protective~~  
2-65 ~~Services~~] to serve at the will of the executive commissioner  
2-66 [~~governor~~].

2-67 (b) The ombudsman programs are managed as part of [~~is~~  
2-68 ~~administratively attached to~~] the office of the ombudsman for the  
2-69 commission.

3-1 (c) Subject to the appropriation of money for those purposes  
3-2 ~~[that purpose]~~, each ~~[the]~~ ombudsman may employ staff to assist the  
3-3 ombudsman in performing the ombudsman's duties under this  
3-4 subchapter.

3-5 ~~[(d) The ombudsman may not use the name or any logo of the~~  
3-6 ~~department on any forms or other materials produced and distributed~~  
3-7 ~~by the ombudsman.]~~

3-8 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) An ~~[The]~~ ombudsman  
3-9 serves as a neutral party in assisting:

3-10 (1) children and youth in the conservatorship of the  
3-11 department with complaints regarding issues within the authority of  
3-12 the commission, the department, or a ~~[another]~~ health and human  
3-13 services agency; and

3-14 (2) consumers ~~[persons]~~ with a complaint against the  
3-15 commission or a health and human services agency ~~[department]~~  
3-16 regarding case-specific activities of the programs of the  
3-17 commission or agency ~~[department, including adult protective~~  
3-18 ~~services, child protective services, child-care licensing, and~~  
3-19 ~~statewide intake].~~

3-20 (b) An ~~[The]~~ ombudsman shall, as applicable:

3-21 (1) develop and implement statewide procedures to:

3-22 (A) receive complaints from:

3-23 (i) children and youth in the  
3-24 conservatorship of the department; and

3-25 (ii) consumers ~~[other persons]~~ with a  
3-26 complaint against the commission or a health and human services  
3-27 agency ~~[department];~~

3-28 (B) review complaints filed with the ombudsman  
3-29 and take appropriate action, including:

3-30 (i) conducting an investigation into  
3-31 individual complaints that allege violations of commission,  
3-32 department, or agency procedure or policy or other violations; and

3-33 (ii) referring to commission, department,  
3-34 or agency management for resolution any trends or systemic issues  
3-35 identified in complaints;

3-36 (C) provide any necessary assistance to:

3-37 (i) children and youth in the  
3-38 conservatorship of the department in making complaints and  
3-39 reporting allegations of abuse or neglect to the department; and

3-40 (ii) any consumer in making complaints to  
3-41 the commission or a health and human services agency;

3-42 (D) maintain the confidentiality of:

3-43 (i) the ombudsman's communications and  
3-44 records;

3-45 (ii) records of another person that have  
3-46 been provided to the ombudsman; and

3-47 (iii) communications of another person with  
3-48 the ombudsman; and

3-49 (E) ensure that the commission, the department, a  
3-50 health and human services agency, and any consumer who files a  
3-51 complaint with the commission, including ~~[person or]~~ a child or  
3-52 youth in the conservatorship of the department who files a  
3-53 complaint with the ombudsman, are informed of the results of the  
3-54 ombudsman's investigation of the complaint, including whether the  
3-55 ombudsman was able to substantiate the ~~[person's, child's, or~~  
3-56 ~~youth's]~~ complaint;

3-57 (2) collaborate with the commission, the department,  
3-58 or a health and human services agency, as applicable, to develop and  
3-59 implement an annual outreach plan to promote awareness of the  
3-60 ombudsman among the public, children and youth in the  
3-61 conservatorship of the department, ~~[family members and caretakers~~  
3-62 ~~of these children,]~~ and facilities licensed by the commission  
3-63 ~~[department]~~ and that includes:

3-64 (A) how the office may be contacted;

3-65 (B) the purpose of the office; and

3-66 (C) the services the office provides;

3-67 (3) notify in writing ~~[issue and file with]~~ the  
3-68 commission, the department, and a ~~[any applicable]~~ health and human  
3-69 services agency, as applicable, of ~~[a report that contains]~~ the

4-1 ombudsman's final determination regarding a complaint and any  
 4-2 recommended corrective actions to be taken as a result of the  
 4-3 complaint;

4-4 (4) establish a secure form of communication with any  
 4-5 individual who files a complaint with the ombudsman;

4-6 (5) collaborate with the commission, the department,  
 4-7 and a health and human services agency, as applicable, to identify  
 4-8 consequences for any retaliatory action related to a complaint  
 4-9 filed with the ombudsman, in accordance with Section 531.997  
 4-10 [~~40.0041(g), Human Resources Code~~]; and

4-11 (6) monitor and evaluate the commission's, the  
 4-12 department's, or a health and human services agency's corrective  
 4-13 actions taken in response to a recommendation by the ombudsman.

4-14 (c) An [The] ombudsman's notification [final determination  
 4-15 in a report] described by Subsection (b)(3) must include a  
 4-16 determination of whether the complaint is a substantiated complaint  
 4-17 [there was wrongdoing or negligence by the department or an agent of  
 4-18 the department or whether the complaint was frivolous and without  
 4-19 merit]. If the ombudsman determines a complaint is a substantiated  
 4-20 complaint [there was wrongdoing or negligence], the ombudsman shall  
 4-21 recommend corrective actions to be taken by the commission, the  
 4-22 department, or a health and human services agency.

4-23 (d) The commission, the department, or a health and human  
 4-24 services agency, as applicable, shall provide written notice to an  
 4-25 ombudsman on whether the commission, department, or agency adopted  
 4-26 or rejected the ombudsman's recommended corrective action. On  
 4-27 rejection of the recommended corrective action, the commission,  
 4-28 department, or health and human services agency shall include in  
 4-29 the notice the reason for the rejection [The ombudsman may attend  
 4-30 any judicial proceeding related to a complaint filed with the  
 4-31 office].

4-32 SECTION 6. Section 531.9931, Government Code, is amended to  
 4-33 read as follows:

4-34 Sec. 531.9931. [DIVISION OF] OMBUDSMAN FOR CHILDREN AND  
 4-35 YOUTH IN FOSTER CARE. (a) The [division of the] ombudsman for  
 4-36 children and youth in foster care is created within the office of  
 4-37 the ombudsman for the purpose of:

4-38 (1) receiving complaints from children and youth in  
 4-39 the conservatorship of the department as provided under Section  
 4-40 531.993(a)(1);

4-41 (2) informing children and youth in the  
 4-42 conservatorship of the department who file a complaint under this  
 4-43 subchapter about the result of the ombudsman's investigation of the  
 4-44 complaint, including whether the ombudsman was able to substantiate  
 4-45 the child's or youth's complaint; and

4-46 (3) collaborating with the department to develop an  
 4-47 outreach plan for children and youth in the conservatorship of the  
 4-48 department to promote awareness of the ombudsman.

4-49 (b) If a child or youth in the conservatorship of the  
 4-50 department contacts an [the] ombudsman by telephone call to report  
 4-51 a complaint under this subchapter, the call shall be transferred  
 4-52 directly to a person employed by the [division of the] ombudsman  
 4-53 created under this section.

4-54 (c) The ombudsman for children and youth in foster care  
 4-55 shall promptly refer to the department for the department to  
 4-56 address in accordance with Section 40.0041, Human Resources Code,  
 4-57 each complaint received by the ombudsman regarding the department,  
 4-58 other than those made by a child or youth in the conservatorship of  
 4-59 the department.

4-60 (d) Not later than the fifth day of each month, the  
 4-61 ombudsman for children and youth in foster care shall compile and  
 4-62 provide to the commission and the department, as applicable, a  
 4-63 written report regarding the investigations the ombudsman compiled  
 4-64 during the preceding month. The report must include:

4-65 (1) a summary of each complaint investigated;

4-66 (2) the ombudsman's final determination on the  
 4-67 complaint; and

4-68 (3) any corrective action recommended by the  
 4-69 ombudsman.

5-1 SECTION 7. Subchapter Y, Chapter 531, Government Code, is  
5-2 amended by adding Section 531.99315 to read as follows:

5-3 Sec. 531.99315. COMPLAINT PROCESS FOR FOSTER CHILDREN AND  
5-4 YOUTH SERVED BY SINGLE SOURCE CONTINUUM CONTRACTOR. (a) In this  
5-5 section, "contractor" means a single source continuum contractor in  
5-6 this state providing services identified under Subchapter B-1,  
5-7 Chapter 264, Family Code.

5-8 (b) A child or youth in the conservatorship of the  
5-9 department and served by a contractor may file a complaint directly  
5-10 with the ombudsman for children and youth in foster care and is not  
5-11 required to file an initial complaint with the contractor.

5-12 (c) The ombudsman for children and youth in foster care may  
5-13 access the internal records of a contractor that are relevant to a  
5-14 complaint filed under this section and not included in the  
5-15 department's automated case tracking and information management  
5-16 system.

5-17 (d) The ombudsman for children and youth in foster care  
5-18 shall provide written notice of the results of the investigation of  
5-19 a complaint filed under this section to:

- 5-20 (1) the child or youth who filed the complaint;
- 5-21 (2) the child's or youth's contractor; and
- 5-22 (3) the department.

5-23 (e) Each contractor in this state shall provide to the  
5-24 ombudsman for children and youth in foster care:

- 5-25 (1) the contractor's contact information for the  
5-26 ombudsman to receive records and provide notice under this section;  
5-27 and
- 5-28 (2) updates to the contact information as necessary.

5-29 (f) A contractor may not directly or indirectly use or cause  
5-30 to be used the term "ombudsman" to describe the contractor or the  
5-31 contractor's internal complaint process.

5-32 SECTION 8. Section 531.0213, Government Code, is  
5-33 transferred to Subchapter Y, Chapter 531, Government Code,  
5-34 redesignated as Section 531.9932, Government Code, and amended to  
5-35 read as follows:

5-36 Sec. 531.9932 [531.0213]. OMBUDSMAN FOR MANAGED CARE  
5-37 [SUPPORT SERVICES FOR MEDICAID RECIPIENTS]. (a) The commission  
5-38 shall establish an ombudsman for managed care to provide support  
5-39 and information services to a consumer [person] enrolled in or  
5-40 applying for Medicaid coverage who experiences barriers to  
5-41 receiving health care services.

5-42 (b) The ombudsman for managed care [commission] shall give  
5-43 emphasis to assisting a consumer [person] with an urgent or  
5-44 immediate medical or support need.

5-45 (b-1) The commission shall provide support and information  
5-46 services required by this section through a network of entities  
5-47 coordinated by the [commission's office of the] ombudsman for  
5-48 managed care [or other division of the commission designated by the  
5-49 executive commissioner] and composed of:

- 5-50 (1) the [commission's office of the] ombudsman [or  
5-51 other division of the commission designated by the executive  
5-52 commissioner to coordinate the network];
- 5-53 (2) the office of the state long-term care ombudsman  
5-54 required under Subchapter F, Chapter 101A, Human Resources Code;
- 5-55 (3) the division within the commission responsible for  
5-56 oversight of Medicaid managed care contracts;
- 5-57 (4) area agencies on aging;
- 5-58 (5) aging and disability resource centers established  
5-59 under the Aging and Disability Resource Center initiative funded in  
5-60 part by the federal Administration on Aging and the Centers for  
5-61 Medicare and Medicaid Services; and
- 5-62 (6) any other entity the executive commissioner  
5-63 determines appropriate, including nonprofit organizations with  
5-64 which the commission contracts under Subsection (c).

5-65 (c) The ombudsman for managed care [commission] may provide  
5-66 support and information services by requesting the commission to  
5-67 contract [contracting] with nonprofit organizations that are not  
5-68 involved in providing health care, health insurance, or health  
5-69 benefits.

6-1 (d) As a part of the support and information services  
 6-2 required by this section, the ombudsman for managed care  
 6-3 ~~[commission]~~ shall:

6-4 (1) operate a statewide toll-free assistance  
 6-5 telephone number that includes relay services for consumers  
 6-6 ~~[persons]~~ with speech or hearing disabilities and assistance for  
 6-7 consumers ~~[persons]~~ who speak Spanish;

6-8 (2) intervene promptly with the state Medicaid office,  
 6-9 managed care organizations and providers, and any other appropriate  
 6-10 entity on behalf of a consumer ~~[person]~~ who has an urgent need for  
 6-11 medical services;

6-12 (3) assist a consumer ~~[person]~~ who is experiencing  
 6-13 barriers in the Medicaid application and enrollment process and  
 6-14 refer the consumer ~~[person]~~ for further assistance if appropriate;

6-15 (4) educate consumers ~~[persons]~~ so that they:

6-16 (A) understand the concept of managed care;

6-17 (B) understand their rights under Medicaid,  
 6-18 including grievance and appeal procedures; and

6-19 (C) are able to advocate for themselves;

6-20 (5) collect and maintain statistical information on a  
 6-21 regional basis regarding cases ~~[calls]~~ received by the ombudsman  
 6-22 ~~[assistance lines]~~ and publish quarterly reports on the  
 6-23 commission's Internet website that:

6-24 (A) list the number of cases ~~[calls]~~ received by  
 6-25 region;

6-26 (B) identify trends in delivery and access  
 6-27 problems;

6-28 (C) identify recurring barriers in the Medicaid  
 6-29 system; and

6-30 (D) indicate other problems identified with  
 6-31 Medicaid managed care;

6-32 (6) assist the state Medicaid office and managed care  
 6-33 organizations and providers in identifying and correcting  
 6-34 problems, including site visits to affected regions if necessary;

6-35 (7) meet the needs of all current and future Medicaid  
 6-36 managed care recipients, including children receiving dental  
 6-37 benefits and other recipients receiving benefits, under the:

6-38 (A) STAR Medicaid managed care program;

6-39 (B) STAR + PLUS Medicaid managed care program,  
 6-40 including the Texas Dual Eligibles Integrated Care Demonstration  
 6-41 Project provided under that program;

6-42 (C) STAR Kids managed care program established  
 6-43 under Section [533.00253](#); and

6-44 (D) STAR Health program; and

6-45 (8) ~~[incorporate support services for children~~  
 6-46 ~~enrolled in the child health plan established under Chapter [62](#),~~  
 6-47 ~~Health and Safety Code, and~~

6-48 ~~[(9)]~~ ensure that staff providing support and  
 6-49 information services receives sufficient training, including  
 6-50 training in the Medicare program for the purpose of assisting  
 6-51 recipients who are dually eligible for Medicare and Medicaid, and  
 6-52 has sufficient authority to resolve barriers experienced by  
 6-53 recipients to health care and long-term services and supports.

6-54 ~~[(c) The commission's office of the ombudsman, or other~~  
 6-55 ~~division of the commission designated by the executive commissioner~~  
 6-56 ~~to coordinate the network of entities responsible for providing~~  
 6-57 ~~support and information services under this section, must be~~  
 6-58 ~~sufficiently independent from other aspects of Medicaid managed~~  
 6-59 ~~care to represent the best interests of recipients in problem~~  
 6-60 ~~resolution.]~~

6-61 SECTION 9. Section [531.02251](#), Government Code, is  
 6-62 transferred to Subchapter Y, Chapter [531](#), Government Code,  
 6-63 redesignated as Section 531.9933, Government Code, and amended to  
 6-64 read as follows:

6-65 Sec. [531.9933](#) [[531.02251](#)]. OMBUDSMAN FOR BEHAVIORAL HEALTH  
 6-66 ACCESS TO CARE. (a) ~~[In this section, "ombudsman" means the~~  
 6-67 ~~individual designated as the ombudsman for behavioral health access~~  
 6-68 ~~to care.]~~

6-69 ~~[(b) The executive commissioner shall designate an~~

7-1 ~~ombudsman for behavioral health access to care.~~  
7-2 ~~[(c) The ombudsman is administratively attached to the~~  
7-3 ~~office of the ombudsman for the commission.~~

7-4 ~~[(d) The commission may use an alternate title for the~~  
7-5 ~~ombudsman in consumer-facing materials if the commission~~  
7-6 ~~determines that an alternate title would be beneficial to consumer~~  
7-7 ~~understanding or access.~~

7-8 ~~[(e)]~~ The ombudsman for behavioral health serves as a  
7-9 neutral party to help consumers, including consumers who are  
7-10 uninsured or have public or private health benefit coverage, and  
7-11 behavioral health care providers navigate and resolve issues  
7-12 related to consumer access to behavioral health care, including  
7-13 care for mental health conditions and substance use disorders.

7-14 (b) ~~[(f)]~~ The ombudsman for behavioral health shall:

7-15 (1) interact with consumers and behavioral health care  
7-16 providers with concerns or complaints to help the consumers and  
7-17 providers resolve behavioral health care access issues, including:

7-18 (A) patients of state hospitals as defined by  
7-19 Section 552.0011, Health and Safety Code; and

7-20 (B) consumers seeking and receiving services  
7-21 through:

7-22 (i) a local behavioral health authority, as  
7-23 described by Section 533.0356, Health and Safety Code; or

7-24 (ii) a local mental health authority, as  
7-25 described by Section 533.035, Health and Safety Code;

7-26 (2) identify, track, and help report potential  
7-27 violations of state or federal rules, regulations, or statutes  
7-28 concerning the availability of, and terms and conditions of,  
7-29 benefits for mental health conditions or substance use disorders,  
7-30 including potential violations related to quantitative and  
7-31 nonquantitative treatment limitations;

7-32 (3) report concerns, complaints, and potential  
7-33 violations described by Subdivision (2) to the appropriate  
7-34 regulatory or oversight agency;

7-35 (4) receive and report concerns and complaints  
7-36 relating to inappropriate care or mental health commitment;

7-37 (5) provide appropriate information to help consumers  
7-38 obtain behavioral health care and understand their rights;

7-39 (6) develop appropriate points of contact for  
7-40 referrals to other state and federal agencies; and

7-41 (7) provide appropriate information to help consumers  
7-42 or providers file appeals or complaints with the appropriate  
7-43 entities, including insurers and other state and federal agencies.

7-44 (c) ~~[(g)]~~ The ombudsman for behavioral health shall  
7-45 participate in the mental health condition and substance use  
7-46 disorder parity work group established under Section 531.02252 and  
7-47 provide summary reports of concerns, complaints, and potential  
7-48 violations described by Subsection (b)(2) ~~[(f)(2)]~~ to the work  
7-49 group. This subsection expires September 1, 2021.

7-50 (d) ~~[(h)]~~ The Texas Department of Insurance shall appoint a  
7-51 liaison to the ombudsman for behavioral health to receive reports  
7-52 of concerns, complaints, and potential violations described by  
7-53 Subsection (b)(2) ~~[(f)(2)]~~ from the ombudsman, consumers, or  
7-54 behavioral health care providers.

7-55 SECTION 10. Subchapter Y, Chapter 531, Government Code, is  
7-56 amended by adding Section 531.9934 to read as follows:

7-57 Sec. 531.9934. OMBUDSMAN FOR INDIVIDUALS WITH INTELLECTUAL  
7-58 OR DEVELOPMENTAL DISABILITIES. (a) In this section, "local  
7-59 intellectual and developmental disability authority" has the  
7-60 meaning assigned by Section 531.002, Health and Safety Code.

7-61 (b) The ombudsman for individuals with intellectual or  
7-62 developmental disabilities serves as a neutral party to assist  
7-63 individuals with intellectual or developmental disabilities and  
7-64 the individuals' representatives and providers in navigating and  
7-65 resolving issues related to services for those individuals provided  
7-66 through:

7-67 (1) the home and community-based services and Texas  
7-68 home living Medicaid waiver programs; and

7-69 (2) local intellectual and developmental disability

8-1 authorities.

8-2 (c) The ombudsman for individuals with intellectual or  
8-3 developmental disabilities shall:

8-4 (1) interact with individuals with intellectual or  
8-5 developmental disabilities and the individuals' representatives  
8-6 and providers with concerns or complaints to assist the  
8-7 individuals, representatives, providers, and local intellectual  
8-8 and developmental disability authorities in resolving those  
8-9 issues;

8-10 (2) identify, track, and assist with reporting  
8-11 potential violations of state or federal rules, regulations, or  
8-12 statutes concerning the rights of individuals with intellectual or  
8-13 developmental disabilities and services provided through:

8-14 (A) the home and community-based services and  
8-15 Texas home living Medicaid waiver programs; and

8-16 (B) local intellectual and developmental  
8-17 disability authorities;

8-18 (3) provide appropriate information to assist  
8-19 individuals with intellectual or developmental disabilities in  
8-20 obtaining services and understanding their rights;

8-21 (4) develop appropriate points of contact for  
8-22 referrals to other state and federal agencies; and

8-23 (5) provide appropriate information to assist  
8-24 individuals with intellectual or developmental disabilities and  
8-25 the individuals' representatives and providers in filing appeals or  
8-26 complaints with the appropriate entities.

8-27 SECTION 11. Sections 531.994, 531.995, 531.996, 531.997,  
8-28 and 531.998, Government Code, are amended to read as follows:

8-29 Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. If,  
8-30 during the investigation of a complaint, an [~~the~~] ombudsman  
8-31 discovers unreported violations of the commission's, the  
8-32 department's, or a health and human services agency's rules and  
8-33 policies, the ombudsman may [~~shall~~] open a new investigation for  
8-34 each unreported violation.

8-35 Sec. 531.995. ACCESS TO INFORMATION. The commission, the  
8-36 department, and each health and human services agency shall provide  
8-37 an [~~the~~] ombudsman access to the commission's, department's, or  
8-38 agency's records and personnel that relate to a complaint the  
8-39 ombudsman is reviewing or investigating.

8-40 Sec. 531.996. COMMUNICATION AND CONFIDENTIALITY. (a) A  
8-41 person may communicate with an [~~the~~] ombudsman relating to a  
8-42 complaint by telephone, by mail, by electronic mail, or by any other  
8-43 means the ombudsman determines to be feasible, secure, and  
8-44 accessible [~~to children and youth~~].

8-45 (b) A communication with an [~~the~~] ombudsman is confidential  
8-46 during an investigation or review of a complaint and remains  
8-47 confidential after the complaint is resolved.

8-48 (c) The records of an [~~the~~] ombudsman are confidential and  
8-49 must be maintained in a manner that preserves the confidentiality  
8-50 of the records.

8-51 (d) The disclosure of confidential information to an [~~the~~]  
8-52 ombudsman under this section or Section 531.995 does not constitute  
8-53 a waiver of confidentiality. Any information disclosed to the  
8-54 ombudsman under this section or Section 531.995 remains  
8-55 confidential and privileged following disclosure.

8-56 (e) An [~~The~~] ombudsman is not prohibited from communicating  
8-57 with the commission, the department, or a [~~another~~] health and  
8-58 human services agency regarding confidential information disclosed  
8-59 to the ombudsman by the commission, department, or agency.

8-60 (f) An [~~The~~] ombudsman may make reports relating to an  
8-61 investigation of a complaint public after the complaint is  
8-62 resolved. A report may not include information that identifies an  
8-63 individual consumer [~~complainant~~], client, parent, or employee or  
8-64 any other person involved in the complaint.

8-65 Sec. 531.997. RETALIATION PROHIBITED. The commission, the  
8-66 department, or a [~~another~~] health and human services agency may not  
8-67 retaliate against a commission, department, or agency employee, a  
8-68 child or youth in the conservatorship of the department, or any  
8-69 other consumer [~~person~~] who in good faith makes a complaint to an

9-1 ~~[the]~~ ombudsman or against any person who cooperates with the  
9-2 ombudsman in an investigation.

9-3 Sec. 531.998. REPORT. (a) The health and human services  
9-4 office of the ombudsman shall prepare an annual report that  
9-5 contains:

9-6 (1) a description of the ~~[ombudsman's]~~ work of the  
9-7 commission's ombudsman programs;

9-8 (2) any change made by the commission, the department,  
9-9 or a ~~[another]~~ health and human services agency in response to a  
9-10 substantiated complaint;

9-11 (3) a description of any trends in the nature of  
9-12 complaints received by an ~~[the]~~ ombudsman, any recommendations  
9-13 related to addressing those trends, and an evaluation of the  
9-14 feasibility of the ombudsman's recommendations;

9-15 (4) a glossary of terms used in the report;

9-16 (5) a description of the methods used to promote  
9-17 awareness of the ombudsman under Section 531.993(b) and the  
9-18 ombudsman's promotion plan for the next year; and

9-19 (6) any public feedback received by the ombudsman  
9-20 relating to the ombudsman's previous annual reports.

9-21 (b) The report must be submitted to the governor, the  
9-22 lieutenant governor, each standing committee of the legislature  
9-23 with jurisdiction over matters involving the commission, the  
9-24 department, and each health and human services agency, each member  
9-25 of the legislature, the executive commissioner, and the  
9-26 commissioner of the department not later than December 1 of each  
9-27 year. On receipt of the report, ~~[the department and]~~ the commission  
9-28 shall make the report publicly available on ~~[the department's and]~~  
9-29 the commission's Internet website ~~[websites]~~.

9-30 SECTION 12. Sections 531.9921 and 531.9941, Government  
9-31 Code, are repealed.

9-32 SECTION 13. If before implementing any provision of this  
9-33 Act a state agency determines that a waiver or authorization from a  
9-34 federal agency is necessary for implementation of that provision,  
9-35 the agency affected by the provision shall request the waiver or  
9-36 authorization and may delay implementing that provision until the  
9-37 waiver or authorization is granted.

9-38 SECTION 14. This Act takes effect immediately if it  
9-39 receives a vote of two-thirds of all the members elected to each  
9-40 house, as provided by Section 39, Article III, Texas Constitution.  
9-41 If this Act does not receive the vote necessary for immediate  
9-42 effect, this Act takes effect September 1, 2019.

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