

BILL ANALYSIS

Senate Research Center
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S.B. 830
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of Consumer Affairs (OCA), the ombudsman office for the Department of Family and Protective Services, is responsible for taking complaints and providing an independent investigation to ensure that policy and procedure is being followed. However, the office is not independent in terms of budget, policy, or personnel, needs its authority and function strengthened, and must ensure that youth in state custody are aware of the protections the office is intended to provide.

S.B. 830 creates the office of consumer affairs for children in foster care under the purview of the Health and Human Services Commission. An ombudsman's office is responsible for protecting the rights of consumers and must be independent of the agency over which it has oversight in order to ensure that it can most effectively serve the children and adults who depend on its protections. The changes proposed in S.B. 830 are intended to meet this goal.

Key Points:

- According to a survey by CASA (40 students who exited foster care within the last 10 years):
 - 62 percent were abused or neglected
 - 53 percent were unable to report it
- Those young adults who indicated they were unable to report the maltreatment they experienced, primarily said that they did not know who to tell or they were threatened so they would not tell.
- Those who were able to report indicated that they did not know what was done about their concern or they believed it had been ignored.
- The majority of young adults surveyed did not know that there was an office where they could report their concerns.

As proposed, S.B. 830 amends current law relating to the establishment of an office of consumer affairs for children in foster care.

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 Chapter 531, Government Code, by adding Subchapter Y, as follows:

SUBCHAPTER Y. OFFICE OF CONSUMER AFFAIRS FOR CHILDREN IN FOSTER CARE

Sec. 531.991. DEFINITIONS. Defines "department" and "office."

Sec. 531.992. OFFICE; STAFF. (a) Provides that the office of consumer affairs for children in foster care (office) is an office in the Health and Human Services Commission (HHSC).

(b) Requires the executive commissioner of HHSC (executive commissioner) to carry out the duties of the office.

Sec. 531.993. DUTIES OF OFFICE. Requires the office to:

(1) develop statewide procedures in order to receive inquiries and complaints from children in the conservatorship of the Department of Family and Protective Services (DFPS);

(2) review complaints and inquiries filed with the office relating to a child in the conservatorship of DFPS;

(3) investigate each complaint described by Subdivision (2);

(4) if a complaint filed with the office alleges the abuse, neglect, or exploitation of a child, assist the child making the complaint in reporting the allegation to DFPS and open a case for the duration of DFPS' investigation of the allegation;

(5) issue and file with DFPS a final report that contains the office's final determination of a complaint's merit and any recommended corrective actions to be taken by DFPS; and

(6) establish a secure form of communication with a child who files a complaint with the office in order to ensure that the child is informed of the results of the office's investigation of the child's complaint, including whether the office was able to substantiate the child's complaint.

Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. Requires the office to open a new investigation for each unreported violation if during the investigation of a complaint the office discovers unreported violations of DFPS' rules and policies.

Sec. 531.995. ACCESS TO INFORMATION. Requires DFPS to provide the office access to the DFPS records that relate to a complaint the office is investigating.

Sec. 531.996. COMMUNICATION AND CONFIDENTIALITY. (a) Requires DFPS to allow any DFPS employee and any child in the conservatorship of DFPS to communicate with the office. Provides that the communication:

(1) may be in person, by telephone, by mail, or by any other means; and

(2) is confidential and privileged.

(b) Provides that the records of the office are confidential, except that if required by a court order on a showing of good cause, the office is required to disclose the office's records.

(c) Authorizes the office to make public reports relating to an investigation after the investigation is complete. Requires the office to redact the names of all children, parents, and employees from the report and maintain the confidentiality of that information.

Sec. 531.997. RETALIATION PROHIBITED. (a) Prohibits DFPS from retaliating against a DFPS employee or any other person who in good faith makes an inquiry or complaint to the office or cooperates with the office in an investigation.

(b) Requires the office to collaborate with the division of DFPS responsible for child care licensing to create consequences, based on the extent of the offense and the severity of the retaliation, for any person who is found to have engaged in retaliation against a child in the conservatorship of DFPS.

Sec. 531.998. PROMOTION OF OFFICE. (a) Requires the office to annually develop and implement an outreach plan to promote awareness among the public, children, and all facilities licensed by DFPS of:

- (1) the purpose of the office;
- (2) the services the office provides; and
- (3) how the office may be contacted.

(b) Requires the office to ensure that:

- (1) all residential facilities in which children in the conservatorship of DFPS are placed display information about the office and the process for filing a complaint with the office in a location that is easily accessible to children residing at the facility; and
- (2) information about the office and the complaint process is provided to:
 - (A) guardians ad litem and court appointed special advocates for children in the conservatorship of DFPS; and
 - (B) staff members of DFPS.

Sec. 531.999. REPORT. (a) Requires the office to prepare an annual report that contains:

- (1) a description of the office's work, including a summary of each complaint the office received and investigated and the manner in which each complaint was resolved;
- (2) any change made by DFPS, either at the regional or statewide level, in response to a substantiated complaint against DFPS;
- (3) a description of any trends in the nature of inquiries or complaints received by the office and any policy recommendations related to addressing those trends;
- (4) a glossary of terms used in the report;
- (5) a description of the methods used to promote awareness of the office under Section 531.998 and the office's promotion plan for the next year; and
- (6) any public feedback received by the office relating to the office's previous annual reports.

(b) Requires that the report be submitted to the executive commissioner and the commissioner of DFPS not later than October 1 of each year. Requires DFPS to make the report publicly available on DFPS' Internet website on receipt of the report.

SECTION 2. Effective date: September 1, 2015.