

HOUSE BILL REPORT

HB 2146

As Reported By House Committee On: Children & Family Services

Title: An act relating to the office of inspector general within the department of social and health services.

Brief Description: Creating the office of inspector general in the department of social and health services.

Sponsors: Representatives Boldt, Stevens, Pennington, Hymes, Carrell, Campbell, Johnson, Thompson, Cooke and McMahan.

Brief History:

Committee Activity:

Children & Family Services: 1/16/96, 1/30/96 [DPS].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cooke, Chairman; Lambert, Vice Chairman; Stevens, Vice Chairman; Boldt; Buck; Carrell; Patterson and Sterk.

Minority Report: Do not pass. Signed by 3 members: Representatives Tokuda, Ranking Minority Member; Brown, Assistant Ranking Minority Member; and Dickerson.

Staff: Douglas Ruth (786-7134).

Background: The Department of Social and Health Service's Office of Special Investigations (OSI) investigates fraud in all programs administered by the department. OSI attempts to detect fraud through the administration of several programs, including the Fraud Early Detection (FrED) and General Investigation programs (GI).

The FrED program attempts to uncover fraud before benefits are distributed to applicants by investigating applications that contain apparent discrepancies. Applications are referred to FrED investigators by local welfare offices. If FrED determines that fraud has been committed, it notifies the local welfare office so that it may deny the application. The GI investigates department overpayment to recipients

for evidence of fraud. When an investigation uncovers evidence of fraud, the office's investigation is referred to a county prosecutor for legal action.

Prior to this January, OSI also conducted investigations of department employee fraud and vendor fraud, and performed internal investigations for other departments (e.g., Labor and Industries, Licensing, Fish and Wildlife) as well. However, Executive Order 96-01, issued by the Governor, transferred jurisdiction over all criminal and major administrative investigations of department employees from OSI to the Washington State Patrol. Jurisdiction over vendor fraud investigations, investigations of fraud by non-employees, and investigations conducted for other departments was retained in OSI.

Summary of Substitute Bill: The Office of Inspector General is created in the Department of Social and Health Services. The inspector general is to investigate allegations of abuse and fraud in all department programs, except for provider fraud relating to the Medicaid program. The Office of Inspector General has the authority to enforce any penal laws associated with programs administered by the department and to respond to citizen complaints. The inspector general is also responsible for conducting and recommending programs for improving prevention and detection of fraud.

To enforce its mandates, the Office of Inspector General is given the power to execute warrants and services of process issued by courts, issue and serve subpoenas, take testimony under oath, enter into contracts for private audits, refer investigations to the Office of the State Auditor and to request assistance from federal, state, or local governmental agencies. The inspector general may appoint two deputies and has access to all records and materials not restricted from disclosure by law. Where the inspector general uncovers substantial evidence of a violation of state or federal law, the office refers its investigation to the appropriate prosecutor.

The inspector general is appointed by, and is under the supervision of the secretary of the Department of Social and Health Services. If a conflict arises between the inspector general and the secretary regarding an investigation, the investigation can be transferred to the authority of the State Patrol by the secretary, inspector general, or the Governor.

A report prepared by the Office of Inspector General is to be presented to the Legislature and to the secretary on November 30, 1996, November 30, 1997, and biennially thereafter, regarding the activities of the office since the last report.

Substitute Bill Compared to Original Bill: Under the original bill, the inspector general was appointed by the Governor for a six-year term and could be removed from office by the Governor only for cause. The power of the Governor, the

secretary, or the inspector general to remove a case to the jurisdiction of the State Patrol was originally absent from the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 1996.

Testimony For: The bill elevates the control over investigations to a higher position in the organizational tree of the department. As an independent unit, the inspector general should be able to conduct investigations more effectively; the duties of investigators are formalized and statutorily defined, which is currently not the case; the bill's formal reporting requirement will ensure accountability; the bill permits OSI to respond to citizen complaints and to refer matters to the state auditor, which may occur now, but is not an authority specifically granted by statute; the extension of the power to enforce penal laws related to Department of Social and Health Services' programs is a power that many other criminal justice agencies possess and is one that is important for ensuring that there is sufficient authority to conduct investigations.

Testimony Against: Two gubernatorial appointments within the same agency creates a possible conflict of interest situation (addressed by substitute bill). The Governor's executive order makes the bill unnecessary. The key criticism of OSI investigations is that there is a real possibility of a conflict of interest when conducting internal investigations. Because these investigations are now placed with the Washington State Patrol, there is no need to create a new office within DSHS.

Testified: (With suggestions) Michelle Delo, Citizens for Washington Families; (Neutral) John Bumford, Office of Special Investigations; (Pro) Charles Bigham, Office of Special Investigations; and Lee Benford, Office of Special Investigations.