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HOUSE BILL 1719

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Boldt, Koster, Cooke, Carlson, Stevens, Benton, Dyer, Padden and Thompson

Read first time 02/06/95. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the office of inspector general within the  
2 department of social and health services; amending RCW 41.06.076;  
3 adding new sections to chapter 43.20A RCW; creating a new section;  
4 providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act shall be cited as the "department  
7 of social and health services inspector general act of 1995."

8 NEW SECTION. **Sec. 2.** As used throughout this chapter:

9 (1) "Disclosable information" means public information that (a) is  
10 not exempt from disclosure under chapter 42.17 RCW; (b) does not  
11 pertain to an ongoing investigation; and (c) has not previously been  
12 disclosed in a public record.

13 (2) "Fraud or abuse" means acts and practices of fraud or abuse in  
14 programs administered by the department and fraud in the provision of  
15 the department's programs. This does not include provider fraud as it  
16 relates to the department's administration of funds pursuant to Title  
17 XIX of the social security act, medicaid.

1 (3) "Inspector general" means the inspector general of the  
2 department.

3 (4) "Office" means the office of the inspector general of the  
4 department.

5 NEW SECTION. **Sec. 3.** There is established in the department an  
6 office of inspector general in order to create an independent unit to:

7 (1) Conduct and supervise investigations relating to allegations of  
8 fraud or abuse;

9 (2) Provide leadership and coordination in recommending policies  
10 and procedures designed to detect and prevent fraud and abuse; and

11 (3) Provide a method of informing the secretary and the legislature  
12 about vulnerabilities and deficiencies relating to the detection and  
13 prevention of fraud or abuse as may be discovered as a result of  
14 completed investigations conducted or coordinated by the office.

15 NEW SECTION. **Sec. 4.** (1) The head of the office is the inspector  
16 general, who shall be appointed by the governor solely on the basis of  
17 integrity and demonstrated ability in law enforcement management,  
18 public administration, and investigations. The inspector general shall  
19 be a member of the Washington state bar association. The inspector  
20 general shall report to and be under the general supervision of the  
21 secretary in all matters related to fraud and program integrity.

22 (2) The inspector general shall only be removed from office by the  
23 governor.

24 (3) If the inspector general discovers that improper governmental  
25 action, as defined in RCW 42.40.020, has occurred during an  
26 investigation with respect to an employee, such as an abuse of  
27 authority so as to impede or interfere with an investigation, then the  
28 inspector general may report the improper governmental action to the  
29 auditor under chapter 42.40 RCW.

30 NEW SECTION. **Sec. 5.** (1) It is the duty and responsibility of the  
31 inspector general to:

32 (a) Conduct, supervise, coordinate, and provide policy direction  
33 for fraud investigations and program integrity as it relates to fraud;

34 (b) Review proposed legislation and rules relating to the detection  
35 and prevention of fraud in programs administered by the department, and  
36 make recommendations for improvement;

1 (c) Recommend policies for and coordinate activities carried out or  
2 financed by the department for the purpose of preventing and detecting  
3 fraud or abuse;

4 (d) Recommend policies for, and conduct, supervise, and coordinate,  
5 relationships between the department and federal, state, and local  
6 governmental agencies, and nongovernmental entities, with respect to:

7 (i) Matters relating to the prevention and detection of fraud or abuse  
8 in programs and operations administered by the department; or (ii) the  
9 identification and prosecution of participants in such fraud or abuse;  
10 and

11 (e) Keep the secretary and the legislature informed by means of  
12 reports concerning the detection and prevention of fraud or abuse, and  
13 to make recommendations for improvement of the activities.

14 (2) In carrying out the duties and responsibilities established in  
15 sections 2 through 8 of this act, the inspector general shall refer all  
16 investigations in which the inspector general has found substantial  
17 evidence supporting a finding of a violation of federal or state  
18 criminal law to the appropriate prosecuting authority for possible  
19 criminal prosecution.

20 NEW SECTION. **Sec. 6.** (1) The inspector general, jointly with the  
21 secretary, shall, not later than July 31st of each year, prepare an  
22 annual report to the legislature, summarizing the activities of the  
23 office during the immediately preceding year ending June 30th. The  
24 report shall contain only disclosable information, including:

25 (a) A description of significant vulnerabilities or deficiencies  
26 relating to the prevention and detection of fraud or abuse discovered  
27 as a result of investigations completed during the reporting period;

28 (b) Recommendations for improving the activities of the office with  
29 respect to the deficiencies identified under (a) of this subsection;

30 (c) A summary of matters referred to prosecution authorities during  
31 the reporting period and the charges filed and convictions entered  
32 during the reporting period that have resulted from referrals by the  
33 office;

34 (d) A summary of each report made to the secretary under section  
35 7(2) of this act during the reporting period;

36 (e) Any comments the secretary determines to be appropriate.

1 (2) The inspector general shall forward a draft of the report to  
2 the secretary not less than twenty days prior to the date that the  
3 report is to be issued.

4 (3) Within sixty days after the transmission of the annual report  
5 of the inspector general to the legislature, the secretary shall make  
6 copies of the report available to the public upon request and at a  
7 reasonable cost.

8 NEW SECTION. **Sec. 7.** (1) In carrying out the provisions of  
9 sections 2 through 8 of this act, the inspector general is authorized  
10 to:

11 (a) Have prompt access to all individuals, records, electronic  
12 data, reports, audits, reviews, documents, and other materials  
13 available to the department that relate to operations of the office  
14 that is not otherwise prohibited from disclosure to the inspector  
15 general;

16 (b) Request such information or assistance as may be necessary for  
17 carrying out the duties and responsibilities provided by sections 2  
18 through 8 of this act from any federal, state, or local governmental  
19 agency or unit of a governmental agency;

20 (c) Issue subpoenas for witnesses, documents, information, and  
21 other data necessary in the furtherance of an investigation conducted  
22 by the office. Such subpoenas are enforceable pursuant to RCW  
23 34.05.588. Prior to issuing subpoenas to a state agency, the inspector  
24 general shall make a reasonable request to the agency for documents and  
25 information in possession of the agency;

26 (d) Administer oaths and take testimony, if necessary in the  
27 performance of the duties and responsibilities provided in sections 2  
28 through 8 of this act, unless otherwise prohibited by law;

29 (e) Have reasonable access to the secretary or his or her designee  
30 when necessary in the performance of the duties and responsibilities  
31 provided by sections 2 through 8 of this act;

32 (f) Appoint not more than two deputies;

33 (g) To the extent and in such amounts as may be provided by  
34 appropriations, select, appoint, and employ such personnel as may be  
35 necessary to carry out the provisions of sections 2 through 8 of this  
36 act;

37 (h) To the extent and in such amounts as may be provided by  
38 appropriations, enter into contracts and other arrangements for audits,

1 studies, analyses, and other services with public agencies and with  
2 private persons, and to make such payments necessary to carry out the  
3 provisions of sections 2 through 8 of this act, subject to compliance  
4 with civil service laws, collective bargaining agreements, and other  
5 applicable law; and

6 (i) To the extent and in such amounts as may be provided by  
7 appropriations, purchase or lease facilities, equipment, and supplies  
8 necessary to carry out the provisions of sections 2 through 8 of this  
9 act.

10 (2) Whenever information or assistance requested under subsection  
11 (1) (a) or (c) of this section is, in the judgment of the inspector  
12 general, unreasonably refused or not provided, the inspector general  
13 shall report the circumstances to the secretary without delay.

14 NEW SECTION. **Sec. 8.** (1) The inspector general may receive and  
15 investigate complaints or information from an employee of the  
16 department concerning the possible existence of an activity  
17 constituting a violation of law, rules, or regulations, or  
18 mismanagement, gross waste of funds, abuse of authority, or a  
19 substantial and specific danger to the public health and safety.

20 (2) The inspector general shall not, after receipt of a complaint  
21 or information from an employee, disclose the identity of the employee  
22 without the consent of the employee, unless the inspector general  
23 determines such disclosure is unavoidable during the course of  
24 investigation, except as otherwise provided by state law.

25 (3) Any employee who has authority to take, direct others to take,  
26 recommend, or approve any personnel action, shall not, with respect to  
27 such authority, take or threaten to take any action against any  
28 employee as a reprisal for making a complaint or disclosing information  
29 to the inspector general, unless the complaint was made with willful  
30 disregard for its truth or falsity.

31 NEW SECTION. **Sec. 9.** Sections 2 through 8 of this act are each  
32 added to chapter 43.20A RCW.

33 **Sec. 10.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to  
34 read as follows:

35 In addition to the exemptions set forth in RCW 41.06.070, the  
36 provisions of this chapter shall not apply in the department of social

1 and health services to the secretary; the secretary's executive  
2 assistant, if any; not to exceed six assistant secretaries, thirteen  
3 division directors, six regional directors; one confidential secretary  
4 for each of the above-named officers; not to exceed six bureau chiefs;  
5 the inspector general and deputy inspector generals; and all  
6 superintendents of institutions of which the average daily population  
7 equals or exceeds one hundred residents: PROVIDED, That each such  
8 confidential secretary must meet the minimum qualifications for the  
9 class of secretary II as determined by the Washington personnel  
10 resources board.

11 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and shall take  
14 effect July 1, 1995.

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