
SUBSTITUTE HOUSE BILL 2146

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Boldt, Stevens, Pennington, Hymes, Carrell, Campbell, Johnson, Thompson, Cooke and McMahan)

Read first time 02/02/96.

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 new sections;
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 is known and may be cited as the
7 department of social and health services inspector general act of 1996.

8 NEW SECTION. **Sec. 2.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout sections 3
10 through 13 of this act.

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

15 (2) "Fraud or abuse" means acts and practices of fraud or abuse in
16 programs administered by the department, including criminal or
17 administrative misconduct by staff, clients, or vendors. This does not

1 include provider fraud as it relates to the department's administration
2 of funds under Title XIX of the social security act, medicaid.

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

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

7 NEW SECTION. **Sec. 3.** (1) There is established in the department
8 an office of inspector general in order to create an independent unit
9 to:

10 (a) Conduct and supervise investigations relating to allegations of
11 fraud or abuse;

12 (b) Provide leadership and coordination in recommending policies
13 and procedures designed to detect and prevent fraud and abuse; and

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

18 (2) The office of inspector general is designated a criminal
19 justice agency as defined in RCW 10.97.030 and 43.43.705.

20 NEW SECTION. **Sec. 4.** The inspector general is the head of the
21 office and is appointed by the secretary solely on the basis of
22 integrity and demonstrated ability in law enforcement management,
23 public administration, and investigations. The inspector general
24 reports to and is under the general supervision of the secretary in all
25 matters related to fraud and program integrity.

26 NEW SECTION. **Sec. 5.** If the inspector general discovers that
27 improper governmental action, as defined in RCW 42.40.020, has occurred
28 during an investigation with respect to an employee, such as an abuse
29 of authority so as to impede or interfere with an investigation, then
30 the inspector general may report the improper governmental action to
31 the auditor under chapter 42.40 RCW.

32 NEW SECTION. **Sec. 6.** (1) It is the duty and responsibility of the
33 inspector general to:

1 (a) Conduct, supervise, and coordinate fraud and abuse
2 investigations and provide policy direction as it relates to program
3 integrity and fraud and abuse;

4 (b) Review proposed legislation and rules relating to the detection
5 and prevention of fraud and abuse in programs administered by the
6 department, and make recommendations for improvement;

7 (c) Recommend policies for and coordinate activities carried out or
8 financed by the department for the purpose of preventing and detecting
9 fraud or abuse;

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

13 (i) Matters relating to the prevention and detection of fraud or abuse
14 in programs and operations administered by the department; or (ii) the
15 identification and prosecution of participants in such fraud or abuse;
16 and

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

20 (2) In carrying out the duties and responsibilities established in
21 sections 2 through 13 of this act, the inspector general must refer all
22 investigations in which the inspector general has found substantial
23 evidence supporting a finding of a violation of federal or state
24 criminal law to the appropriate prosecuting authority for possible
25 criminal prosecution.

26 NEW SECTION. **Sec. 7.** In addition to its other powers and duties,
27 the office of the inspector general has the power to enforce the penal
28 provisions of sections 2 through 13 of this act, and as it may be
29 amended, the penal laws of the state relating to programs administered
30 by the department. The office of inspector general has the authority
31 to apply for and execute all warrants and serve process of law issued
32 by the courts in enforcing the provisions of sections 2 through 13 of
33 this act. The office of inspector general has the power to issue and
34 serve subpoenas under RCW 43.20A.110 and 43.20A.605.

35 NEW SECTION. **Sec. 8.** (1) The inspector general must submit a
36 report summarizing the activities of the office to the appropriate
37 committees of the senate and house of representatives by November 30,

1 1996, and by November 30, 1997, and biennially thereafter. The report
2 shall contain only disclosable information, including:

3 (a) A description of significant fraud or abuse, and of
4 vulnerabilities or deficiencies relating to the prevention and
5 detection of fraud or abuse, discovered as a result of investigations
6 completed during the reporting period;

7 (b) A description of corrective action taken by the department
8 regarding fraud and abuse discovered as a result of investigations
9 conducted by the office of inspector general;

10 (c) Recommendations for improving the activities of the office with
11 respect to the vulnerabilities or deficiencies identified under (a) of
12 this subsection;

13 (d) An identification of each significant recommendation described
14 in the previous reports on which corrective action has or has not been
15 completed;

16 (e) A summary of matters referred to prosecution authorities during
17 the reporting period and the charges filed and convictions entered
18 during the reporting period that have resulted from referrals by the
19 office; and

20 (f) Any comments the secretary determines to be appropriate.

21 (2) The inspector general must forward a draft of the report to the
22 secretary not less than twenty days prior to the date that the report
23 is to be issued.

24 (3) Within sixty days after the transmission of the report of the
25 inspector general to the legislature, the secretary must make copies of
26 the report available to the public upon request and at a reasonable
27 cost.

28 NEW SECTION. **Sec. 9.** (1) In carrying out the provisions of
29 sections 2 through 13 of this act, the inspector general is authorized
30 to:

31 (a) Request information or assistance as is necessary for carrying
32 out the duties and responsibilities provided by sections 2 through 13
33 of this act from a federal, state, or local governmental agency or unit
34 of a governmental agency;

35 (b) Issue subpoenas for witnesses, documents, information, and
36 other data necessary in the furtherance of an investigation conducted
37 by the office. The subpoenas are enforceable under RCW 34.05.588.
38 Prior to issuing subpoenas to a state agency, the inspector general

1 must make a reasonable request to the agency for documents and
2 information in possession of the agency;

3 (c) Administer oaths and take testimony, when appropriate in the
4 performance of the duties and responsibilities provided in sections 2
5 through 13 of this act, unless otherwise prohibited by law;

6 (d) Appoint not more than two deputies;

7 (e) To the extent and in the amount as may be provided by
8 appropriation, select, appoint, and employ personnel as may be
9 necessary to carry out the provisions of sections 2 through 13 of this
10 act;

11 (f) To the extent and in the amount as may be provided by
12 appropriation, enter into contracts and other arrangements for audits,
13 studies, analyses, and other services with public agencies and with
14 private persons, and make the payments necessary to carry out the
15 provisions of sections 2 through 13 of this act, subject to compliance
16 with civil service laws, collective bargaining agreements, and other
17 applicable law; and

18 (g) To the extent and in the amount as may be provided by
19 appropriation, purchase or lease facilities, equipment, and supplies
20 necessary to carry out the provisions of sections 2 through 13 of this
21 act.

22 (2) Whenever information or assistance requested under subsection
23 (1)(a) of this section is, in the judgment of the inspector general,
24 unreasonably refused or not provided, the inspector general must report
25 the circumstances to the secretary without delay.

26 NEW SECTION. **Sec. 10.** (1) In carrying out the provisions of
27 sections 2 through 13 of this act, the inspector general is authorized
28 to:

29 (a) 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 13 of this act;

32 (b) Have prompt access to all individuals, records, electronic
33 data, reports, audits, reviews, documents, and other materials
34 available to the department that relate to operations of the office
35 that is not otherwise prohibited from disclosure to the inspector
36 general.

37 (2) Whenever information or assistance requested under subsection
38 (1) (a) or (b) of this section is, in the judgment of the inspector

1 general, unreasonably refused or not provided, the inspector general
2 must report the circumstances to the secretary without delay.

3 NEW SECTION. **Sec. 11.** (1) The inspector general may receive and
4 investigate complaints or information from an employee of the
5 department or a citizen concerning the possible existence of an
6 activity constituting a violation of law or rules, or mismanagement,
7 gross waste of funds, abuse of authority, or a substantial and specific
8 danger to the public health and safety.

9 (2) The inspector general must not, after receipt of a complaint or
10 information from a complainant, disclose the identity of the
11 complainant without the consent of the complainant, unless the
12 inspector general determines that the disclosure is unavoidable during
13 the course of investigation, except as otherwise provided by state law.

14 (3) An employee who has authority to take, direct others to take,
15 recommend, or approve a personnel action, must not, with respect to the
16 authority, take or threaten to take an action against an employee as a
17 reprisal for making a complaint or disclosing information to the
18 inspector general, unless the complaint was made with willful disregard
19 for its truth or falsity.

20 NEW SECTION. **Sec. 12.** At any point in which a conflict arises
21 between the inspector general and the secretary involving the
22 direction, scope, or any other aspect of an investigation of
23 allegations of wrong-doing by a department employee, vendor, or
24 contractor, the governor, the secretary, or the inspector general may
25 transfer authority to conduct the investigation to the Washington state
26 patrol. The Washington state patrol shall conduct the investigation,
27 and in furtherance thereof is granted all the powers and authority
28 granted the inspector general under sections 9(1)(a) through (c) and 10
29 of this act.

30 NEW SECTION. **Sec. 13.** (1) The inspector general may be contracted
31 by other state agencies to conduct investigations into allegations of
32 fraud and abuse in those agencies. The requesting agency must
33 reimburse the office of inspector general for the cost of the
34 investigation.

1 (2) The inspector general must provide the requesting agency a
2 report of findings and may also file the findings with the appropriate
3 prosecuting attorney.

4 NEW SECTION. **Sec. 14.** (1) All powers, duties, and functions of
5 the office of special investigation pertaining to the investigation of
6 fraud and abuse and other duties set out under sections 2 through 13 of
7 this act are transferred to the office of the inspector general of the
8 department of social and health services.

9 (2)(a) All reports, documents, surveys, books, records, files,
10 papers, or written material in the possession of the office of special
11 investigation pertaining to the powers, functions, and duties
12 transferred shall be delivered to the custody of the office of the
13 inspector general of the department of social and health services. All
14 cabinets, furniture, office equipment, motor vehicles, and other
15 tangible property employed by the office of special investigation in
16 carrying out the powers, functions, and duties transferred shall be
17 made available to the office of the inspector general of the department
18 of social and health services. All funds, credits, or other assets
19 held in connection with the powers, functions, and duties transferred
20 shall be assigned to the office of the inspector general of the
21 department of social and health services.

22 (b) Any appropriations made to the office of special investigation
23 for carrying out the powers, functions, and duties transferred shall,
24 on the effective date of this section, be transferred and credited to
25 the office of the inspector general of the department of social and
26 health services.

27 (c) Whenever any question arises as to the transfer of any
28 personnel, funds, books, documents, records, papers, files, equipment,
29 or other tangible property used or held in the exercise of the powers
30 and the performance of the duties and functions transferred, the
31 director of financial management shall make a determination as to the
32 proper allocation and certify the same to the state agencies concerned.

33 (3) All employees of the office of special investigation engaged in
34 performing the powers, functions, and duties transferred are
35 transferred to the jurisdiction of the office of the inspector general
36 of the department of social and health services. All employees
37 classified under chapter 41.06 RCW, the state civil service law, are
38 assigned to the office of the inspector general of the department of

1 social and health services to perform their usual duties upon the same
2 terms as formerly, without any loss of rights, subject to any action
3 that may be appropriate thereafter in accordance with the laws and
4 rules governing state civil service.

5 (4) All rules and all pending business before the office of special
6 investigation pertaining to the powers, functions, and duties
7 transferred shall be continued and acted upon by the office of the
8 inspector general of the department of social and health services. All
9 existing contracts and obligations shall remain in full force and shall
10 be performed by the office of the inspector general of the department
11 of social and health services.

12 (5) The transfer of the powers, duties, functions, and personnel of
13 the office of special investigation shall not affect the validity of
14 any act performed before the effective date of this section.

15 (6) If apportionments of budgeted funds are required because of the
16 transfers directed by this section, the director of financial
17 management shall certify the apportionments to the agencies affected,
18 the state auditor, and the state treasurer. Each of these shall make
19 the appropriate transfer and adjustments in funds and appropriation
20 accounts and equipment records in accordance with the certification.

21 (7) Nothing contained in this section may be construed to alter any
22 existing collective bargaining unit or the provisions of any existing
23 collective bargaining agreement until the agreement has expired or
24 until the bargaining unit has been modified by action of the personnel
25 board as provided by law.

26 NEW SECTION. **Sec. 15.** Sections 2 through 13 of this act are each
27 added to chapter 43.20A RCW.

28 **Sec. 16.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to
29 read as follows:

30 In addition to the exemptions set forth in RCW 41.06.070, the
31 provisions of this chapter (~~shall~~) do not apply in the department of
32 social and health services to the secretary; the secretary's executive
33 assistant, if any; not to exceed six assistant secretaries, thirteen
34 division directors, six regional directors; one confidential secretary
35 for each of the above-named officers; not to exceed six bureau chiefs;
36 the inspector general and deputy inspector generals; and all
37 superintendents of institutions of which the average daily population

1 equals or exceeds one hundred residents(~~(:PROVIDED, That)~~). However,
2 each (~~such~~) confidential secretary must meet the minimum
3 qualifications for the class of secretary II as determined by the
4 Washington personnel resources board.

5 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 July 1, 1996.

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