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HOUSE BILL 2146

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Boldt, Stevens, Pennington, Hymes, Carrell, Campbell, Johnson, Thompson, Cooke and McMahan

Read first time 01/08/96. 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 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 12 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.** (1) The inspector general is the head of the  
21 office and is appointed by the governor solely on the basis of  
22 integrity and demonstrated ability in law enforcement management,  
23 public administration, and investigations. The inspector general is  
24 appointed for a six-year term. The inspector general reports to and is  
25 under the general supervision of the secretary in all matters related  
26 to fraud and program integrity.

27 (2) The inspector general may be removed from office by the  
28 governor for cause.

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

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

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

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

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

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

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

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

22        (2) In carrying out the duties and responsibilities established in  
23 sections 2 through 12 of this act, the inspector general must refer all  
24 investigations in which the inspector general has found substantial  
25 evidence supporting a finding of a violation of federal or state  
26 criminal law to the appropriate prosecuting authority for possible  
27 criminal prosecution.

28        NEW SECTION. Sec. 7. In addition to its other powers and duties,  
29 the office of the inspector general has the power to enforce the penal  
30 provisions of sections 2 through 12 of this act, and as it may be  
31 amended, the penal laws of the state relating to programs administered  
32 by the department. The office of inspector general has the authority  
33 to apply for and execute all warrants and serve process of law issued  
34 by the courts in enforcing the provisions of sections 2 through 12 of  
35 this act. The office of inspector general has the power to issue and  
36 serve subpoenas under RCW 43.20A.110 and 43.20A.605.

1        NEW SECTION.    **Sec. 8.**    (1) The inspector general must submit a  
2 report summarizing the activities of the office to the appropriate  
3 committees of the senate and house of representatives by November 30,  
4 1996, and by November 30, 1997, and biennially thereafter. The report  
5 shall contain only disclosable information, including:

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

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

13       (c) Recommendations for improving the activities of the office with  
14 respect to the vulnerabilities or deficiencies identified under (a) of  
15 this subsection;

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

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

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

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

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

31       NEW SECTION.    **Sec. 9.**    (1) In carrying out the provisions of  
32 sections 2 through 12 of this act, the inspector general is authorized  
33 to:

34       (a) Request information or assistance as is necessary for carrying  
35 out the duties and responsibilities provided by sections 2 through 12  
36 of this act from a federal, state, or local governmental agency or unit  
37 of a governmental agency;

1 (b) Issue subpoenas for witnesses, documents, information, and  
2 other data necessary in the furtherance of an investigation conducted  
3 by the office. The subpoenas are enforceable under RCW 34.05.588.  
4 Prior to issuing subpoenas to a state agency, the inspector general  
5 must make a reasonable request to the agency for documents and  
6 information in possession of the agency;

7 (c) Administer oaths and take testimony, when appropriate in the  
8 performance of the duties and responsibilities provided in sections 2  
9 through 12 of this act, unless otherwise prohibited by law;

10 (d) Appoint not more than two deputies;

11 (e) To the extent and in the amount as may be provided by  
12 appropriation, select, appoint, and employ personnel as may be  
13 necessary to carry out the provisions of sections 2 through 12 of this  
14 act;

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

22 (g) To the extent and in the amount as may be provided by  
23 appropriation, purchase or lease facilities, equipment, and supplies  
24 necessary to carry out the provisions of sections 2 through 12 of this  
25 act.

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

30 NEW SECTION. **Sec. 10.** (1) In carrying out the provisions of  
31 sections 2 through 12 of this act, the inspector general is authorized  
32 to:

33 (a) Have reasonable access to the secretary or his or her designee  
34 when necessary in the performance of the duties and responsibilities  
35 provided by sections 2 through 12 of this act;

36 (b) Have prompt access to all individuals, records, electronic  
37 data, reports, audits, reviews, documents, and other materials  
38 available to the department that relate to operations of the office

1 that is not otherwise prohibited from disclosure to the inspector  
2 general.

3 (2) Whenever information or assistance requested under subsection  
4 (1) (a) or (b) of this section is, in the judgment of the inspector  
5 general, unreasonably refused or not provided, the inspector general  
6 must report the circumstances to the secretary without delay.

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

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

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

24 NEW SECTION. **Sec. 12.** (1) The inspector general may be contracted  
25 by other state agencies to conduct investigations into allegations of  
26 fraud and abuse in those agencies. The requesting agency must  
27 reimburse the office of inspector general for the cost of the  
28 investigation.

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

32 NEW SECTION. **Sec. 13.** (1) All powers, duties, and functions of  
33 the office of special investigation pertaining to the investigation of  
34 fraud and abuse and other duties set out under sections 2 through 12 of  
35 this act are transferred to the office of the inspector general of the  
36 department of social and health services.

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

14 (b) Any appropriations made to the office of special investigation  
15 for carrying out the powers, functions, and duties transferred shall,  
16 on the effective date of this section, be transferred and credited to  
17 the office of the inspector general of the department of social and  
18 health services.

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

25 (3) All employees of the office of special investigation engaged in  
26 performing the powers, functions, and duties transferred are  
27 transferred to the jurisdiction of the office of the inspector general  
28 of the department of social and health services. All employees  
29 classified under chapter 41.06 RCW, the state civil service law, are  
30 assigned to the office of the inspector general of the department of  
31 social and health services to perform their usual duties upon the same  
32 terms as formerly, without any loss of rights, subject to any action  
33 that may be appropriate thereafter in accordance with the laws and  
34 rules governing state civil service.

35 (4) All rules and all pending business before the office of special  
36 investigation pertaining to the powers, functions, and duties  
37 transferred shall be continued and acted upon by the office of the  
38 inspector general of the department of social and health services. All  
39 existing contracts and obligations shall remain in full force and shall

1 be performed by the office of the inspector general of the department  
2 of social and health services.

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

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

12 (7) Nothing contained in this section may be construed to alter any  
13 existing collective bargaining unit or the provisions of any existing  
14 collective bargaining agreement until the agreement has expired or  
15 until the bargaining unit has been modified by action of the personnel  
16 board as provided by law.

17 NEW SECTION. **Sec. 14.** Sections 2 through 12 of this act are each  
18 added to chapter 43.20A RCW.

19 **Sec. 15.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to  
20 read as follows:

21 In addition to the exemptions set forth in RCW 41.06.070, the  
22 provisions of this chapter (~~shall~~) do not apply in the department of  
23 social and health services to the secretary; the secretary's executive  
24 assistant, if any; not to exceed six assistant secretaries, thirteen  
25 division directors, six regional directors; one confidential secretary  
26 for each of the above-named officers; not to exceed six bureau chiefs;  
27 the inspector general and deputy inspector generals; and all  
28 superintendents of institutions of which the average daily population  
29 equals or exceeds one hundred residents(~~(:—PROVIDED, That)~~). However,  
30 each (~~such~~) confidential secretary must meet the minimum  
31 qualifications for the class of secretary II as determined by the  
32 Washington personnel resources board.

33 NEW SECTION. **Sec. 16.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the



1 state government and its existing public institutions, and takes effect  
2 July 1, 1996.

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