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ENGROSSED SUBSTITUTE HOUSE BILL 1719

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Boldt, Koster, Cooke, Carlson, Stevens, Benton, Dyer, Padden and Thompson)

Read first time 03/01/95.

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 report to and be under the general supervision of the secretary in all  
20 matters related to fraud and program integrity.

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

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

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

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

33 (b) Review proposed legislation and rules relating to the detection  
34 and prevention of fraud in programs administered by the department, and  
35 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 submit a report summarizing the activities of the  
22 office to the appropriate committees of the senate and house of  
23 representatives by January 1, 1996, and by January 1, 1997, and  
24 biennially thereafter. The report shall contain only disclosable  
25 information, including:

26 (a) A description of significant vulnerabilities or deficiencies  
27 relating to the prevention and detection of fraud or abuse discovered  
28 as a result of investigations completed during the reporting period,  
29 and a description of significant deficiencies relating to the  
30 administration of programs and operations of the department discovered  
31 as a result of investigations completed during the reporting period;

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

34 (c) An identification of each significant recommendation described  
35 in the previous reports on which corrective action has or has not been  
36 completed;

37 (d) A summary of matters referred to prosecution authorities during  
38 the reporting period and the charges filed and convictions entered

1 during the reporting period that have resulted from referrals by the  
2 office;

3 (e) A summary of each report made to the secretary under section  
4 7(2) of this act during the reporting period;

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

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

9 (3) Within sixty days after the transmission of the report of the  
10 inspector general to the legislature, the secretary shall make copies  
11 of the report available to the public upon request and at a reasonable  
12 cost.

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

16 (a) Have prompt access to all individuals, records, electronic  
17 data, reports, audits, reviews, documents, and other materials  
18 available to the department that relate to operations of the office  
19 that is not otherwise prohibited from disclosure to the inspector  
20 general;

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

25 (c) Issue subpoenas for witnesses, documents, information, and  
26 other data necessary in the furtherance of an investigation conducted  
27 by the office. Such subpoenas are enforceable pursuant to RCW  
28 34.05.588. Prior to issuing subpoenas to a state agency, the inspector  
29 general shall make a reasonable request to the agency for documents and  
30 information in possession of the agency;

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

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

37 (f) Appoint not more than two deputies;

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

5 (h) To the extent and in such amounts as may be provided by  
6 appropriations, enter into contracts and other arrangements for audits,  
7 studies, analyses, and other services with public agencies and with  
8 private persons, and to make such payments necessary to carry out the  
9 provisions of sections 2 through 8 of this act, subject to compliance  
10 with civil service laws, collective bargaining agreements, and other  
11 applicable law; and

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

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

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

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

31 (3) Any employee who has authority to take, direct others to take,  
32 recommend, or approve any personnel action, shall not, with respect to  
33 such authority, take or threaten to take any action against any  
34 employee as a reprisal for making a complaint or disclosing information  
35 to the inspector general, unless the complaint was made with willful  
36 disregard for its truth or falsity.

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

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

5        In addition to the exemptions set forth in RCW 41.06.070, the  
6 provisions of this chapter shall not apply in the department of social  
7 and health services to the secretary; the secretary's executive  
8 assistant, if any; not to exceed six assistant secretaries, thirteen  
9 division directors, six regional directors; one confidential secretary  
10 for each of the above-named officers; not to exceed six bureau chiefs;  
11 the inspector general and deputy inspector generals; and all  
12 superintendents of institutions of which the average daily population  
13 equals or exceeds one hundred residents:    PROVIDED, That each such  
14 confidential secretary must meet the minimum qualifications for the  
15 class of secretary II as determined by the Washington personnel  
16 resources board.

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

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