
HOUSE BILL 2334

State of Washington

54th Legislature

1996 Regular Session

By Representatives Stevens, Thompson, Smith, Boldt, Sterk, Mulliken, Lambert, Hargrove, Sheahan, Backlund, Johnson, Campbell and McMahan

Read first time 01/10/96. Referred to Committee on Government Operations.

1 AN ACT Relating to the appointment of an inspector general within
2 the office of the state auditor; adding a new section to chapter 13.34
3 RCW; adding a new section to chapter 26.44 RCW; adding new sections to
4 chapter 43.09 RCW; adding new sections to chapter 43.131 RCW; and
5 providing an effective date.

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

7 NEW SECTION. **Sec. 1.** Sections 1 through 8 of this act shall be
8 cited as the inspector general act of 1996.

9 NEW SECTION. **Sec. 2.** Unless the context indicates otherwise, the
10 definitions in this section apply throughout this chapter.

11 (1) "Fraud or abuse" means acts or practices of fraud or abuse
12 within, or in programs administered by, the department of social and
13 health services, or in operations of the department of social and
14 health services. However, this definition does not include provider
15 fraud as it relates to the department of social and health services'
16 administration of funds under Title XIX of the social security act,
17 medicaid.

18 (2) "Office" means the office of the inspector general.

1 NEW SECTION. **Sec. 3.** The office of inspector general is
2 established within the office of the state auditor. The state auditor
3 must appoint a person to head the office who is known as the inspector
4 general. The auditor's appointment must be based solely on the basis
5 of integrity and demonstrated ability in law enforcement management,
6 public administration, and investigations.

7 NEW SECTION. **Sec. 4.** The mission of the inspector general and the
8 office of inspector general is to:

9 (1) Conduct and supervise independent and objective investigations
10 relating to allegations of fraud or abuse within, or in programs
11 administered by, the department of social and health services;

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

14 (3) Provide a method of informing the secretary of the department
15 of social and health services, the legislature, and members of the
16 public about fraud or abuse identified by the inspector general or the
17 office of the state auditor and the corrective action taken to deal
18 with it.

19 NEW SECTION. **Sec. 5.** (1) It is the duty of the inspector general
20 to:

21 (a) Conduct, supervise, coordinate, and provide policy direction
22 for fraud or abuse investigations;

23 (b) Review and make recommendations regarding existing and proposed
24 legislation and regulations relating to the programs and operations of
25 the department of social and health services;

26 (c) Recommend policies and improved systems to prevent fraud or
27 abuse;

28 (d) Recommend policies for, and conduct, supervise, and coordinate,
29 relationships between the department of social and health services and
30 federal, state, and local governmental agencies, and nongovernmental
31 entities, with respect to: (i) Matters relating to the prevention and
32 detection of fraud or abuse; or (ii) the identification and prosecution
33 of participants in the fraud or abuse; and

34 (e) Keep the secretary of the department of social and health
35 services, the legislature, and the public informed by means of reports
36 concerning fraud or abuse, the recommendations of the inspector general

1 to deal with the fraud or abuse, and the progress of the corrective
2 action taken to deal with it.

3 (2) In carrying out the duties and responsibilities established in
4 sections 2 through 8 of this act, the inspector general must refer to
5 the appropriate prosecuting authority for possible criminal prosecution
6 all investigations in which the inspector general concludes that there
7 is probable cause to believe that a violation of federal or state
8 criminal law has occurred. The inspector general may also recommend
9 that the appropriate prosecuting attorney petition a special inquiry
10 judge as provided in RCW 10.27.170.

11 NEW SECTION. **Sec. 6.** (1) The inspector general must submit a
12 report summarizing the activities of the office to the appropriate
13 committees of the senate and house of representatives by January 1,
14 1997, and biennially thereafter. The report shall contain only
15 disclosable information, including:

16 (a) A description of instances of fraud or abuse discovered as a
17 result of inspector general investigations completed during the
18 reporting period;

19 (b) Recommendations for improving the activities of the office with
20 respect to the instances of fraud or abuse identified under (a) of this
21 subsection;

22 (c) An identification of each significant recommendation described
23 in the previous reports on which corrective action has or has not been
24 completed; and

25 (d) A summary of matters referred to prosecution authorities during
26 the reporting period and the charges filed and convictions entered
27 during the reporting period that have resulted from referrals by the
28 office.

29 The term "disclosable information" means public information that
30 may be disclosed by the office without violation of any law.

31 (2) The inspector general must forward a draft of the report to the
32 secretary of the department of social and health services not less than
33 twenty days prior to the date that the report is to be issued.

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

1 (a) Have prompt access to all individuals, records, electronic
2 data, reports, audits, reviews, documents, and other materials
3 available to the department of social and health services that relate
4 to operations of the office that is not otherwise prohibited from
5 disclosure to the inspector general;

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

10 (c) Issue subpoenas for witnesses, documents, information, and
11 other data necessary in the furtherance of an investigation conducted
12 by the office. The subpoenas are enforceable under RCW 34.05.588.
13 Prior to issuing subpoenas to a state agency, the inspector general
14 must make a reasonable request to the agency for documents and
15 information in possession of the agency;

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

19 (e) To the extent and in amounts as may be provided by
20 appropriations, enter into contracts and other arrangements for audits,
21 studies, analyses, and other services with public agencies and with
22 private persons, and make payments necessary to carry out the
23 provisions of sections 2 through 8 of this act, subject to approval of
24 the state auditor and in compliance with civil service laws, collective
25 bargaining agreements, and other applicable law.

26 (2) The state auditor is authorized to:

27 (a) To the extent and in amounts as may be provided by
28 appropriations, employ personnel as may be necessary to carry out the
29 provisions of sections 2 through 8 of this act;

30 (b) To the extent and in amounts as may be provided by
31 appropriations, purchase or lease facilities, equipment, and supplies
32 necessary to carry out the provisions of sections 2 through 8 of this
33 act; and

34 (c) Delegate to the inspector general any function of the state
35 auditor under chapter 42.40 RCW.

36 NEW SECTION. **Sec. 8.** (1) The inspector general may receive and
37 investigate complaints or information from an employee of the
38 department of social and health services concerning the possible

1 existence of an activity constituting a violation of law, rules,
2 mismanagement, gross waste of funds, abuse of authority, or a
3 substantial and specific danger to the public health and safety. These
4 activities are deemed to constitute fraud or abuse.

5 (2) The inspector general must not, after receipt of a complaint or
6 information from an employee, disclose the identity of the employee
7 without the consent of the employee, unless the inspector general
8 determines that disclosure is unavoidable during the course of
9 investigation, except as otherwise provided by state law.

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

16 (4) The inspector general must also investigate complaints filed
17 with the office by persons who are not employees of the department of
18 social and health services. However, this duty to investigate does not
19 extend to a complaint where the inspector general finds that the
20 complaint's allegations if true would not constitute fraud or abuse.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 13.34 RCW
22 to read as follows:

23 Whenever an employee of the department of social and health
24 services conducts an investigation for the purpose of determining
25 whether a child might be a dependent child or whether the parent-child
26 relationship should be terminated, the employee may not:

27 (a) Enter and examine the parental home where the child resides,
28 without first obtaining permission to do so from a parent residing in
29 the home and without first advising the parent whose permission is
30 sought of the parent's right to refuse permission and of the parent's
31 right to require the employee to promptly leave the home, should the
32 permission be granted.

33 (b) Conduct an interview of a parent of the child unless the
34 employee first advises the parent that: (i) Anything the parent states
35 may be used against the parent in dependency proceedings, proceedings
36 to terminate the parent-child relationship, or criminal proceedings;
37 (ii) the parent is not required to participate in the interview; (iii)
38 if the parent does participate in the interview, the parent may at any

1 time stop participating; (iv) the parent may obtain the assistance of
2 legal counsel; and (v) the parent need not provide information that
3 might be used against the parent in any criminal case.

4 (2) Violation of this section constitutes "abuse" for purposes of
5 sections 1 through 8 of this act.

6 (3) Subsections (1) and (2) of this section do not apply to an
7 investigative activity authorized under a search warrant, a judicial
8 order, or rules adopted by the state supreme court.

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.44 RCW
10 to read as follows:

11 (1) Whenever an employee of the department of social and health
12 services conducts an investigation for the purpose of determining
13 whether a child might be a victim of abuse or neglect, the employee may
14 not:

15 (a) Enter and examine the parental home where the child resides,
16 without first obtaining permission to do so from a parent residing in
17 the home and without first advising the parent whose permission is
18 sought of the parent's right to refuse permission and of the parent's
19 right to require the employee to promptly leave the home, should the
20 permission be granted.

21 (b) Conduct an interview of a parent of the child unless the
22 employee first advises the parent that: (i) Anything the parent states
23 may be used against the parent in dependency proceedings, proceedings
24 to terminate the parent-child relationship, or criminal proceedings;
25 (ii) the parent is not required to participate in the interview; (iii)
26 if the parent does participate in the interview, the parent may at any
27 time stop participating; (iv) the parent may obtain the assistance of
28 legal counsel; and (v) the parent need not provide information that
29 might be used against the parent in any criminal case.

30 (2) Violation of this section constitutes "abuse" for purposes of
31 sections 1 through 8 of this act.

32 (3) Subsections (1) and (2) of this section do not apply to an
33 investigative activity authorized under a search warrant, a judicial
34 order, or rules adopted by the state supreme court.

35 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act are each
36 added to chapter 43.09 RCW.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.131
2 RCW to read as follows:

3 The inspector general program, sections 1 through 8 of this act, is
4 terminated on June 30, 2001, as provided in section 13 of this act.

5 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.131
6 RCW to read as follows:

7 The following acts or parts of acts, as now existing or hereafter
8 amended, are each repealed June 30, 2002:

9 (1) Section 1 of this act;

10 (2) Section 2 of this act;

11 (3) Section 3 of this act;

12 (4) Section 4 of this act;

13 (5) Section 5 of this act;

14 (6) Section 6 of this act;

15 (7) Section 7 of this act; and

16 (8) Section 8 of this act.

17 NEW SECTION. **Sec. 14.** This act shall take effect July 1, 1996.

--- END ---