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HOUSE BILL 1020

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Boldt, Carlson, Carrell and Mielke

Read first time 01/13/97. 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 1997.

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

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 1997, and by November 30, 1998, 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, 1997.

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