

2 **SSB 5653 - H COMM AMD ADOPTED 4/12/95**
3 By Committee on Children & Family Services

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** This act shall be cited as the "department
8 of social and health services inspector general act of 1995."

9 NEW SECTION. **Sec. 2.** As used throughout this chapter:

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

14 (2) "Fraud or abuse" means acts and practices of fraud or abuse in
15 programs administered by the department and fraud in the provision of
16 the department's programs. This does not include provider fraud as it
17 relates to the department's administration of funds pursuant to Title
18 XIX of the social security act, medicaid.

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

21 (4) "Office" means the office of the inspector general of the
22 department.

23 NEW SECTION. **Sec. 3.** There is established in the department an
24 office of inspector general in order to create an independent unit to:

25 (1) Conduct and supervise investigations relating to allegations of
26 fraud or abuse;

27 (2) Provide leadership and coordination in recommending policies
28 and procedures designed to detect and prevent fraud and abuse; and

29 (3) Provide a method of informing the secretary and the legislature
30 about vulnerabilities and deficiencies relating to the detection and
31 prevention of fraud or abuse as may be discovered as a result of
32 completed investigations conducted or coordinated by the office.

33 NEW SECTION. **Sec. 4.** (1) The head of the office is the inspector

1 general, who shall be appointed by the governor solely on the basis of
2 integrity and demonstrated ability in law enforcement management,
3 public administration, and investigations. The inspector general shall
4 report to and be under the general supervision of the secretary in all
5 matters related to fraud and program integrity.

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

8 (3) If the inspector general discovers that improper governmental
9 action, as defined in RCW 42.40.020, has occurred during an
10 investigation with respect to an employee, such as an abuse of
11 authority so as to impede or interfere with an investigation, then the
12 inspector general may report the improper governmental action to the
13 auditor under chapter 42.40 RCW.

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

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

18 (b) Review proposed legislation and rules relating to the detection
19 and prevention of fraud in programs administered by the department, and
20 make recommendations for improvement;

21 (c) Recommend policies for and coordinate activities carried out or
22 financed by the department for the purpose of preventing and detecting
23 fraud or abuse;

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

27 (i) Matters relating to the prevention and detection of fraud or abuse
28 in programs and operations administered by the department; or (ii) the
29 identification and prosecution of participants in such fraud or abuse;
30 and

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

34 (2) In carrying out the duties and responsibilities established in
35 sections 2 through 8 of this act, the inspector general shall refer all
36 investigations in which the inspector general has found substantial
37 evidence supporting a finding of a violation of federal or state
38 criminal law to the appropriate prosecuting authority for possible

1 criminal prosecution.

2 NEW SECTION. **Sec. 6.** (1) The inspector general, jointly with the
3 secretary, shall submit a report summarizing the activities of the
4 office to the appropriate committees of the senate and house of
5 representatives by January 1, 1996, and by January 1, 1997, and
6 biennially thereafter. The report shall contain only disclosable
7 information, including:

8 (a) A description of significant vulnerabilities or deficiencies
9 relating to the prevention and detection of fraud or abuse discovered
10 as a result of investigations completed during the reporting period,
11 and a description of significant deficiencies relating to the
12 administration of programs and operations of the department discovered
13 as a result of investigations completed during the reporting period;

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

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

19 (d) 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;

23 (e) A summary of each report made to the secretary under section
24 7(2) of this act during the reporting period;

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

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

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

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

36 (a) Have prompt access to all individuals, records, electronic
37 data, reports, audits, reviews, documents, and other materials

1 available to the department that relate to operations of the office
2 that is not otherwise prohibited from disclosure to the inspector
3 general;

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

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

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

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

20 (f) Appoint not more than two deputies;

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

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

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the
36 state government and its existing public institutions, and shall take

1 effect July 1, 1995."

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5 On page 1, line 1 of the title, after "fraud;" strike the remainder
6 of the title and insert "amending RCW 41.06.076; adding new sections to
7 chapter 43.20A RCW; creating a new section; providing an effective
8 date; and declaring an emergency."

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