

SB 5877 - S COMM AMD

By Committee on Human Services & Corrections

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The legislature finds that eliminating
4 waste, fraud, and abuse of public assistance benefits should be a top
5 priority of the department of social and health services, and this can
6 best be reflected in a newly organized, accountable, and proactive
7 fraud unit directly under the secretary's authority with the resources
8 necessary to combat fraud and to ensure the confidence of the public in
9 the critical social safety net programs it funds.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.04 RCW
11 to read as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Abuse" means any use of public assistance resources that is
15 contrary to purposes specified in statute whether or not it is defined
16 as a criminal act.

17 (2) "Disclosable information" means public information that (a) is
18 not exempt from disclosure under chapter 42.17 RCW; and (b) does not
19 pertain to an ongoing investigation.

20 (3) "Fraud" means any of the unlawful practices enumerated in RCW
21 74.08.331.

22 (4) "Office" means the office of program integrity.

23 (5) "Public assistance" or "public assistance programs" means
24 public aid to persons in need thereof including assistance grants, food
25 assistance, work relief, disability lifeline benefits, temporary
26 assistance for needy families, and working connections child care
27 subsidies.

1 **Sec. 3.** RCW 74.04.012 and 2008 c 74 s 3 are each amended to read
2 as follows:

3 (1) There is established a unit within the department for the
4 purpose of detection, investigation, and prosecution of any act
5 prohibited or declared to be unlawful in the programs administered by
6 the department. The secretary will employ qualified supervisory,
7 legal, and investigative personnel for the program. Program staff must
8 be qualified by training and experience.

9 (2) For purposes of reducing fraud and abuse in public assistance
10 programs, the office of program integrity is created.

11 (a) The director of the office of program integrity is the head of
12 the office and is selected by the secretary and must demonstrate
13 suitable capacity and experience in law enforcement management, public
14 administration, and criminal investigations. The director of the
15 office of program integrity shall:

16 (i) Report directly to the secretary;

17 (ii) Ensure that each citizen complaint, employee complaint, law
18 enforcement complaint, and agency referral is assessed and, when risk
19 of fraud or abuse is present, each complaint is fully investigated, and
20 is referred for prosecution or recovery when there is substantial
21 evidence of wrongdoing;

22 (iii) Develop policies and protocols to allow consistent and real-
23 time review of all cash assistance programs administered by the
24 department to assure that benefits are being used for their statutorily
25 stated goals and analyze alternatives to the cash delivery system that
26 are consistent with federal law, cost-effective, and can help ensure
27 that benefits are being used for appropriate purposes; and

28 (iv) Manage fraud investigative tools and resources to effectively
29 balance them between field operations and data analytics.

30 (b) The office shall:

31 (i) Conduct independent and objective investigations into
32 allegations of fraud and abuse, make appropriate referral to law
33 enforcement when there is substantial evidence of criminal activity,
34 and recover overpayment whenever possible and to the greatest possible
35 degree;

36 (ii) Recommend policies, procedures, and best practices designed to
37 detect and prevent fraud and abuse, and to mitigate the risk for fraud
38 and abuse;

1 (iii) Inform the secretary, governor, and legislature about
2 vulnerabilities and deficiencies relating to the detection and
3 prevention of fraud and abuse as may be discovered as a result of
4 completed investigations conducted or coordinated by the office; and
5 (iv) Assist the fraud ombudsman in the state auditor's office with
6 his or her responsibilities in auditing and overseeing the activities
7 of the office of program integrity under this section.

8 **Sec. 4.** RCW 43.20A.605 and 2009 c 549 s 5078 are each amended to
9 read as follows:

10 (1) The secretary or a designee shall have full authority to
11 administer oaths and take testimony thereunder, to issue subpoenas
12 requiring the attendance of witnesses before him or her together with
13 all books, memoranda, papers, and other documents, articles or
14 instruments, and to compel the disclosure by such witnesses of all
15 facts known to them relative to the matters under investigation.

16 (2) Subpoenas issued in adjudicative proceedings are governed by
17 RCW 34.05.588(1).

18 (3) Subpoenas issued in the conduct of investigations required or
19 authorized by other statutory provisions or necessary in the
20 enforcement of other statutory provisions shall be governed by RCW
21 34.05.588(2).

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.04 RCW
23 to read as follows:

24 (1) In carrying out the provisions of this chapter, the director of
25 the office of program integrity shall have prompt access to all
26 individuals, records, electronic data, reports, audits, reviews,
27 documents, and other materials available to the department of revenue,
28 department of labor and industries, department of early learning,
29 employment security department, department of licensing, and any other
30 government entity that can be used to help facilitate investigations of
31 fraud or abuse as determined necessary by the director of the office of
32 program integrity.

33 (2) Whenever information or assistance requested under subsection
34 (1) of this section is, in the judgment of the director, unreasonably
35 refused or not provided, the director of the office of program
36 integrity must report the circumstances to the secretary immediately.

1 **Sec. 6.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read
2 as follows:

3 (1) It is an unfair practice for any employer, employment agency,
4 labor union, or other person to discharge, expel, or otherwise
5 discriminate against any person because he or she has opposed any
6 practices forbidden by this chapter, or because he or she has filed a
7 charge, testified, or assisted in any proceeding under this chapter.

8 (2) It is an unfair practice for a government agency or government
9 manager or supervisor to retaliate against a whistleblower as defined
10 in chapter 42.40 RCW.

11 (3) It is an unfair practice for any employer, employment agency,
12 labor union, government agency, government manager, or government
13 supervisor to discharge, expel, discriminate, or otherwise retaliate
14 against an individual assisting with an office of program integrity
15 investigation under RCW 74.04.012, unless the individual has willfully
16 disregarded the truth in providing information to the office.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.09 RCW
18 to read as follows:

19 (1) The auditor shall appoint a fraud ombudsman to oversee and
20 annually audit the work of the office of program integrity within the
21 department of social and health services. The ombudsman shall review
22 the fraud investigative work done by the office including cases filed
23 with local prosecuting authorities. The ombudsman shall also have
24 authority to investigate citizen complaints made to the auditor's
25 office related to fraud or abuse in any public assistance program. The
26 department of social and health services shall provide the ombudsman
27 with access to any relevant records it has in its possession related to
28 a fraud or abuse investigation as determined by the fraud ombudsman,
29 including access to historic and real-time electronic benefit transfer
30 card transaction data.

31 (2) The fraud ombudsman shall have access to front line personnel
32 in the office of program integrity for purposes of interviews and
33 evaluation.

34 (3) The fraud ombudsman must submit a report summarizing its
35 auditing activities of the office to the appropriate committees of the
36 legislature by November 30, 2012, and biennially thereafter. The

1 office of program integrity shall assist the ombudsman to the fullest
2 extent practicable in producing this report. The report shall contain
3 only disclosable information, including:

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

8 (b) A description of corrective action taken by the department of
9 social and health services regarding fraud and abuse discovered as a
10 result of investigations conducted by the office of program integrity;

11 (c) Recommendations for improving the activities of the office of
12 program integrity with respect to the vulnerabilities or deficiencies
13 identified under (a) of this subsection;

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

17 (e) A summary of matters referred to prosecuting authorities during
18 the reporting period and the charges filed and convictions entered
19 during the reporting period that have resulted from referrals by the
20 office of program integrity;

21 (f) A description of the division of duties within the office of
22 program integrity between fraud early detection and criminal
23 investigative assignments and whether the office has appropriate
24 resources to adequately respond to referrals from the department, other
25 agencies, and the public concerning fraud or abuse;

26 (g) A description of the ease of access allowed by the office of
27 program integrity to all necessary data and personnel for purposes of
28 conducting the audit; and

29 (h) A determination of whether the director of the office of
30 program integrity has met the requirements in RCW 74.04.012.

31 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 July 1, 2011."

NOT CONSIDERED 05/25/2011

1 On page 1, line 1 of the title, after "integrity;" strike the
2 remainder of the title and insert "amending RCW 74.04.012, 43.20A.605,
3 and 49.60.210; adding new sections to chapter 74.04 RCW; adding a new
4 section to chapter 43.09 RCW; creating a new section; providing an
5 effective date; and declaring an emergency."

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