

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Office of State Inspector General.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 422 to read as follows:

CHAPTER 422. OFFICE OF STATE INSPECTOR GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. DEFINITIONS. In this chapter:

(1) "Covered entity" means a person, entity, or representative that has an employment, agency, contractual, financial, or fiduciary relationship with a state agency that administers or implements state or federally funded programs, and includes a provider.

(2) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person, including any act that constitutes fraud under applicable federal or state law.

(3) "Furnished" refers to items or services provided directly by, or under the direct supervision of, or ordered by a practitioner or other individual (either as an employee or in the individual's own capacity), a covered entity, or other supplier of services, excluding services ordered by one party but billed for and provided by or under the supervision of another.

1 (4) "Hold on payment" means the temporary denial of
2 payment or reimbursement for items or services furnished by a
3 covered entity and includes the temporary denial of reimbursement
4 under a state or federal program for items or services furnished by
5 a specified provider.

6 (5) "Office" means the Office of State Inspector
7 General.

8 (6) "Practitioner" means a physician or other
9 individual licensed under state law to practice the individual's
10 profession.

11 (7) "Program exclusion" means the suspension of a
12 covered entity from being authorized under a state or federal
13 program to request payment for, or reimbursement of, items or
14 services furnished by that specific entity.

15 (8) "Provider" has the meaning assigned by Section
16 531.1011.

17 (9) "State inspector general" means the individual
18 appointed as the state inspector general under this chapter.

19 Sec. 422.002. OFFICE OF STATE INSPECTOR GENERAL. (a) The
20 Office of State Inspector General is an agency of the state.

21 (b) The office operates under the direction and supervision
22 of the state inspector general.

23 (c) The office shall have its principal office and
24 headquarters in Austin, Texas.

25 Sec. 422.003. SUNSET PROVISION. The Office of State
26 Inspector General is subject to Chapter 325 (Texas Sunset Act).
27 Unless continued in existence as provided by that chapter, the

1 office is abolished and this chapter expires September 1, 2019.

2 Sec. 422.004. REFERENCE IN OTHER STATUTES. Notwithstanding
3 any other provision of law, a reference in law or rule to the Health
4 and Human Services Commission's office of investigations and
5 enforcement or the Health and Human Services Commission's office of
6 inspector general means the Office of State Inspector General
7 established under this chapter.

8 [Sections 422.005-422.050 reserved for expansion]

9 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

10 Sec. 422.051. APPOINTMENT BY GOVERNOR. (a) The governor,
11 with the advice and consent of the senate, shall appoint the state
12 inspector general.

13 (b) The governor shall appoint the state inspector general
14 without regard to the race, color, disability, sex, religion, age,
15 or national origin of the appointee.

16 (c) In appointing a person as state inspector general, the
17 governor shall consider, among other things, the person's knowledge
18 of laws, experience in the enforcement of law, honesty, integrity,
19 education, training, and executive ability.

20 Sec. 422.052. ELIGIBILITY. (a) A person is not eligible
21 for appointment as state inspector general if the person or the
22 person's spouse is an employee, officer, or paid consultant of a
23 trade association in a field under the office's jurisdiction.

24 (b) A person who is required to register as a lobbyist under
25 Chapter 305 because of the person's activities for compensation in
26 or on behalf of a profession related to a field under the office's
27 jurisdiction may not serve as state inspector general.

1 (c) A person is not eligible for appointment as state
2 inspector general if the person has a financial interest in a
3 corporation, organization, or association receiving state or
4 federal funds under contract with the state or a political
5 subdivision of the state.

6 Sec. 422.053. TERM. The state inspector general serves a
7 two-year term that expires on February 1 of each odd-numbered year.

8 Sec. 422.054. STATE AGENCY INSPECTORS GENERAL. (a) As
9 necessary to implement this chapter, the state inspector general,
10 in consultation with the office of the governor, may designate
11 state agency inspectors general in state agencies that implement or
12 administer state or federal programs. A state agency inspector
13 general may be colocated with an agency.

14 (b) Each state agency inspector general, whether or not
15 colocated with an agency, is an employee of the office and shall
16 report to the state inspector general.

17 (c) A state agency shall provide facilities and support
18 services, including suitable office space, furniture, computer
19 equipment, communications equipment, and administrative support,
20 to each state agency inspector general colocated at the agency and
21 the state agency inspector general's staff.

22 (d) The office and each state agency with which a state
23 agency inspector general is colocated shall execute a service level
24 agreement to establish performance standards regarding the
25 facilities and support services provided by the agency. Each
26 service level agreement must be reviewed at least annually to
27 ensure that the facilities and support services are being provided

1 in accordance with the agreement.

2 Sec. 422.055. PEACE OFFICERS. (a) The office may employ
3 and commission peace officers, in a number not to exceed 10 percent
4 of the total number of employees of the office, for the purpose of
5 assisting the state inspector general in carrying out the duties of
6 the office under this chapter or other law.

7 (b) A commissioned peace officer or other designated law
8 enforcement officer employed by the office is not entitled to
9 supplemental benefits from the law enforcement and custodial
10 officer supplemental retirement fund under Title 8.

11 Sec. 422.056. MERIT SYSTEM. (a) The office may establish
12 a merit system for its employees.

13 (b) The merit system may be maintained in conjunction with
14 other state agencies that are required by state or federal law to
15 operate under a merit system.

16 Sec. 422.057. RULEMAKING AUTHORITY. The state inspector
17 general may adopt rules necessary to carry out the duties of the
18 office under this chapter and other law.

19 Sec. 422.058. PUBLIC INPUT INFORMATION AND COMPLAINTS.
20 (a) The office shall develop and implement policies that provide
21 the public a reasonable opportunity to appear before the office and
22 to speak on any issue under the office's jurisdiction.

23 (b) The office shall prepare information of public interest
24 describing the functions of the office and the office's procedures
25 by which complaints are filed with and resolved by the office. The
26 office shall make the information available to the public and
27 appropriate state agencies.

1 (c) The office shall keep an information file about each
2 complaint filed with the office relating to a state agency, license
3 holder, or entity receiving state or federal funds and falling
4 within the jurisdiction of the office.

5 Sec. 422.059. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR
6 OVERCHARGES. (a) The office may grant an award to an individual
7 who reports activity that constitutes fraud, waste, or abuse of
8 funds in any state or federal program implemented or administered
9 by a state agency or who reports overcharges in a program if the
10 office determines that the disclosure results in the recovery of an
11 administrative or civil penalty imposed by law. The office may not
12 grant an award to an individual in connection with a report if the
13 office or attorney general had independent knowledge of the
14 activity reported by the individual.

15 (b) The office shall determine the amount of an award
16 granted under this section. An award may not exceed five percent of
17 the amount of the administrative or civil penalty imposed by law
18 that resulted from the individual's disclosure. In determining the
19 amount of an award, the office shall consider how important the
20 disclosure is in ensuring the fiscal integrity of the program. The
21 office may also consider whether the individual participated in the
22 fraud, waste, abuse, or overcharge.

23 (c) A person who brings an action under Subchapter C,
24 Chapter 36, Human Resources Code, is not eligible for an award under
25 this section.

26 [Sections 422.060-422.100 reserved for expansion]

1 SUBCHAPTER C. POWERS AND DUTIES; ENFORCEMENT

2 Sec. 422.101. AUTHORITY. (a) The office is responsible
3 for the audit, detection, investigation, prevention, and review of
4 fraud, waste, and abuse in the provision of health and human
5 services as provided by Section 531.102 and in the state
6 implementation or administration of all state or federally funded
7 programs and the enforcement of state law relating to those
8 programs.

9 (b) The office may obtain any information or technology
10 necessary to enable the office to meet its responsibilities under
11 this chapter or other law.

12 (c) The state inspector general shall set clear objectives,
13 priorities, and performance standards for the office that
14 emphasize:

15 (1) coordinating investigative efforts to
16 aggressively recover money;

17 (2) allocating resources to cases that have the
18 strongest supportive evidence and the greatest potential for
19 recovery of money; and

20 (3) maximizing opportunities for referral of cases to
21 the office of the attorney general in accordance with this chapter.

22 (d) The office shall employ and train office staff to enable
23 the staff to pursue fraud, waste, and abuse cases as necessary.

24 Sec. 422.102. POWERS. The office has all the powers necessary
25 or appropriate to carry out its responsibilities and functions under
26 this chapter and other law. In addition to performing functions and
27 duties otherwise provided by law, the office may:

1 (1) assess administrative penalties authorized by law
2 on behalf of a state agency implementing or administering a state or
3 federal program and retain from amounts collected funds sufficient
4 to cover investigative and collection costs;

5 (2) request that the attorney general obtain an
6 injunction to prevent a person from disposing of an asset
7 identified by the office as potentially subject to recovery by the
8 office due to the person's fraud, waste, or abuse;

9 (3) provide for coordination between the office and
10 special investigative units formed by managed care organizations
11 under Section 531.113 or entities with which managed care
12 organizations contract under that section;

13 (4) audit the use and effectiveness of state or
14 federal funds, including contract and grant funds, administered by
15 a person or state agency;

16 (5) conduct reviews, investigations, and inspections
17 relating to the funds described by Subdivision (4);

18 (6) recommend policies promoting economical and
19 efficient administration of the funds described by Subdivision (4)
20 and the prevention and detection of fraud, waste, and abuse in
21 administration of those funds; and

22 (7) conduct internal affairs investigations in
23 instances of fraud, waste, and abuse and in instances of misconduct
24 by employees, contractors, subcontractors, and vendors.

25 Sec. 422.103. EXECUTIVE ORDERS. (a) The governor may
26 issue executive orders directing state agencies to implement
27 recommendations for corrective or remedial actions promoting the

1 economical and efficient administration of funds and the detection
2 of fraud issued by the office under Section 422.102.

3 (b) The governor may submit a report to the lieutenant
4 governor, the speaker of the house of representatives, the state
5 auditor, and the comptroller describing executive orders issued
6 under this section and compliance by state agencies with those
7 orders.

8 Sec. 422.104. CRITERIA FOR INVESTIGATIONS. The office by
9 rule shall set specific criteria, including claims criteria, that,
10 when met, require the office to begin an investigation.

11 Sec. 422.105. INTEGRITY REVIEWS. (a) If the office
12 receives a complaint of fraud, waste, or abuse from any source, the
13 office must conduct an integrity review to determine whether there
14 is sufficient basis to warrant a full investigation. An integrity
15 review must begin not later than the 30th day after the date the
16 office receives a complaint or has reason to believe that fraud,
17 waste, or abuse has occurred. An integrity review must be completed
18 not later than the 90th day after it began.

19 (b) If the findings of an integrity review give the office
20 reason to believe that an incident of fraud, waste, or abuse
21 involving possible criminal conduct has occurred in the
22 administration or implementation of a state or federally funded
23 program, the office must take the following action after the
24 completion of the integrity review:

25 (1) if a covered entity is suspected of fraud, waste,
26 or abuse involving criminal conduct, the office must refer the case
27 to the appropriate state or local official having jurisdiction to

1 prosecute such criminal conduct, provided that the criminal
2 referral does not preclude the office from continuing its
3 investigation of the covered entity, which investigation may lead
4 to the imposition of appropriate administrative or civil sanctions;
5 or

6 (2) if there is reason to believe that a recipient has
7 defrauded a state or federal program, the office may conduct a full
8 investigation of the suspected fraud.

9 Sec. 422.106. WITHHELD, CONCEALED, OR DESTROYED RECORDS.

10 If the office learns or has reason to suspect that a covered
11 entity's records are being withheld, concealed, destroyed,
12 fabricated, or in any way falsified, the office shall immediately
13 refer the case to the appropriate state or local official having
14 jurisdiction to prosecute such criminal conduct. However, such
15 criminal referral does not preclude the office from continuing its
16 investigation of the covered entity, which investigation may lead
17 to the imposition of appropriate administrative or civil sanctions.

18 Sec. 422.107. HOLDS ON PAYMENT. (a) In addition to other
19 instances authorized under state or federal law, the office shall
20 impose, without prior notice, a hold on payment of money owed, or
21 claimed to be owed, to a covered entity, including claims for
22 reimbursement submitted by a provider, to compel production of
23 records or when requested by a state or local official to which a
24 case was referred under Section 422.106, as applicable. The office
25 must notify the covered entity of the hold on payment not later than
26 the fifth working day after the date the payment hold is imposed.

27 (b) On timely written request by a covered entity subject to

1 a hold on payment, except as provided by Subsection (d), the office
2 shall file a request with the State Office of Administrative
3 Hearings for an expedited administrative hearing regarding the
4 hold. The covered entity must request an expedited hearing under
5 this subsection not later than the 10th day after the date the
6 covered entity receives notice from the office under Subsection
7 (a).

8 (c) The office shall adopt rules that allow a covered entity
9 subject to a hold on payment, except as provided by Subsection (d),
10 to seek an informal resolution of the issues identified by the
11 office in the notice provided under Subsection (a). A covered
12 entity must seek an informal resolution under this subsection not
13 later than the deadline prescribed by Subsection (b). A covered
14 entity's decision to seek an informal resolution under this
15 subsection does not extend the time by which the covered entity must
16 request an expedited administrative hearing under Subsection (b).
17 However, a hearing initiated under Subsection (b) shall be stayed
18 at the office's request until the informal resolution process is
19 completed.

20 (d) Subsections (b) and (c) do not apply to a covered entity
21 subject to a hold on payment imposed by the office at the request of
22 a state or local official to which a case was referred under Section
23 422.106.

24 Sec. 422.108. GUIDELINES FOR HOLDS ON PAYMENT AND PROGRAM
25 EXCLUSIONS. The office shall establish guidelines under which
26 holds on payment or program exclusions:

27 (1) may permissively be imposed on a covered entity;

1 or

2 (2) shall automatically be imposed on a covered
3 entity.

4 Sec. 422.109. FINAL REPORTS. (a) The office shall prepare
5 a final report on each audit or investigation conducted by the
6 office under this chapter or other law. The final report must
7 include:

8 (1) a summary of the activities performed by the
9 office in conducting the audit or investigation;

10 (2) a statement regarding whether the audit or
11 investigation resulted in a finding of any wrongdoing; and

12 (3) a description of any findings of wrongdoing.

13 (b) A final report on an audit or investigation is subject
14 to required disclosure under Chapter 552. All information and
15 materials compiled during an audit or investigation remain
16 confidential and not subject to required disclosure in accordance
17 with Section 422.111(f).

18 Sec. 422.110. FRAUD PREVENTION. (a) The office shall
19 compile and disseminate accurate information and statistics
20 relating to:

21 (1) fraud prevention; and

22 (2) post-fraud referrals received and accepted or
23 rejected from the office's case management system or the case
24 management system of an agency.

25 (b) The office shall:

26 (1) aggressively publicize successful fraud
27 prosecutions and fraud-prevention programs through all available

1 means, including the use of statewide press releases; and

2 (2) maintain and promote a toll-free hotline for
3 reporting suspected fraud in state or federally funded programs
4 implemented or administered by an agency.

5 Sec. 422.111. ADMINISTRATIVE SUBPOENAS. (a) The office
6 may issue an administrative subpoena in connection with an
7 investigation conducted by the office to compel the attendance of a
8 relevant witness or the production, for inspection or copying, of
9 relevant evidence that is in this state.

10 (b) A subpoena may be served personally or by certified
11 mail.

12 (c) If a person fails to comply with a subpoena, the office,
13 acting through the attorney general, may file suit to enforce the
14 subpoena in a district court in this state.

15 (d) On finding that good cause exists for issuing the
16 subpoena, the court shall order the person to comply with the
17 subpoena. The court may punish a person who fails to obey the court
18 order.

19 (e) The reimbursement of the expenses of a witness whose
20 attendance is compelled under this section is governed by Section
21 2001.103.

22 (f) All information and materials subpoenaed or compiled by
23 the office in connection with an audit or investigation are
24 confidential and not subject to disclosure under Chapter 552 and
25 not subject to disclosure, discovery, subpoena, or other means of
26 legal compulsion for their release to anyone other than the office
27 or its employees or agents involved in the audit or investigation

1 conducted by the office, except that this information may be
2 disclosed to the office of the attorney general, the state
3 auditor's office, and law enforcement agencies.

4 (g) A person who receives information under Subsection (f)
5 may disclose the information only in accordance with that
6 subsection and in a manner that is consistent with the authorized
7 purpose for which the person first received the information.

8 Sec. 422.112. AGENCY COOPERATION. All state agencies shall
9 provide assistance, as needed, to the office in connection with the
10 office's duties relating to the investigation of fraud, waste, and
11 abuse in the implementation or administration of state or federally
12 funded programs. The office is entitled to access to any
13 information maintained by a state agency or any covered entity,
14 including internal records, relevant to the functions of the
15 office.

16 Sec. 422.113. INTERAGENCY COORDINATION. (a) The Office of
17 State Inspector General and the office of the attorney general
18 shall enter into a memorandum of understanding to develop and
19 implement joint written procedures for processing cases of
20 suspected fraud, waste, or abuse, as those terms are defined by
21 state or federal law, or other violations of state or federal law
22 under any state or federally funded program implemented or
23 administered by a state agency.

24 (b) The memorandum of understanding shall require:

25 (1) the Office of State Inspector General and the
26 office of the attorney general to set priorities and guidelines for
27 referring cases to appropriate state agencies for investigation,

1 prosecution, or other disposition to enhance deterrence of fraud,
2 waste, abuse, or other violations of state or federal law,
3 including a violation of Chapter 102, Occupations Code, in the
4 programs and to maximize the imposition of penalties, the recovery
5 of money, and the successful prosecution of cases;

6 (2) the Office of State Inspector General to refer
7 each case of suspected fraud, waste, or abuse to the office of the
8 attorney general not later than the 20th business day after the date
9 the Office of State Inspector General determines that the existence
10 of fraud, waste, or abuse is reasonably indicated;

11 (3) the office of the attorney general to take
12 appropriate action in response to each case referred to the
13 attorney general, which action may include direct initiation of
14 prosecution, with the consent of the appropriate local district or
15 county attorney, direct initiation of civil litigation, referral to
16 an appropriate United States attorney, a district attorney, or a
17 county attorney, or referral to a collection agency for initiation
18 of civil litigation or other appropriate action;

19 (4) the Office of State Inspector General to keep
20 detailed records for cases processed by that office or the office of
21 the attorney general, including information on the total number of
22 cases processed and, for each case:

23 (A) the agency and division to which the case is
24 referred for investigation;

25 (B) the date on which the case is referred; and

26 (C) the nature of the suspected fraud, waste, or
27 abuse;

1 (5) the Office of State Inspector General to notify
2 each appropriate division of the office of the attorney general of
3 each case referred by the Office of State Inspector General;

4 (6) the office of the attorney general to ensure that
5 information relating to each case investigated by that office is
6 available to each division of the office with responsibility for
7 investigating suspected fraud, waste, or abuse;

8 (7) the office of the attorney general to notify the
9 Office of State Inspector General of each case the attorney general
10 declines to prosecute or prosecutes unsuccessfully;

11 (8) representatives of the Office of State Inspector
12 General and of the office of the attorney general to meet not less
13 than quarterly to share case information and determine the
14 appropriate agency and division to investigate each case; and

15 (9) the Office of State Inspector General and the
16 office of the attorney general to submit information requested by
17 the comptroller about each resolved case for the comptroller's use
18 in improving fraud detection.

19 (c) An exchange of information under this section between
20 the office of the attorney general and the Office of State Inspector
21 General or any other state agency does not affect whether the
22 information is subject to disclosure under Chapter 552.

23 (d) With respect to Medicaid fraud, in addition to the
24 provisions required by Subsection (b), the memorandum of
25 understanding required by this section must also ensure that no
26 barriers to direct fraud referrals to the office of the attorney
27 general's Medicaid fraud control unit or unreasonable impediments

1 to communication between Medicaid agency employees and the Medicaid
2 fraud control unit are imposed, and must include procedures to
3 facilitate the referral of cases directly to the office of the
4 attorney general.

5 Sec. 422.114. SEMIANNUAL REPORT. The Office of State
6 Inspector General and the office of the attorney general shall
7 jointly prepare and submit a semiannual report to the governor,
8 lieutenant governor, speaker of the house of representatives, and
9 comptroller concerning the activities of those offices in detecting
10 and preventing fraud, waste, and abuse under any state or federally
11 funded program implemented or administered by a state agency that
12 is reviewed by the Office of State Inspector General under this
13 chapter. The report may be consolidated with any other report
14 relating to the same subject matter the Office of State Inspector
15 General or office of the attorney general is required to submit
16 under other law.

17 Sec. 422.115. ASSESSMENT AND COLLECTION OF CERTAIN FEES AND
18 COSTS. (a) The Office of State Inspector General and the office of
19 the attorney general may not assess or collect investigation and
20 attorney's fees on behalf of any state agency unless the office of
21 the attorney general or other state agency collects a penalty,
22 restitution, or other reimbursement payment to the state.

23 (b) A district attorney, county attorney, city attorney, or
24 private collection agency may collect and retain costs associated
25 with a case referred to the attorney or agency in accordance with
26 procedures adopted under Section 422.113 and 20 percent of the
27 amount of the penalty, restitution, or other reimbursement payment

1 collected.

2 Sec. 422.116. ASSISTING INVESTIGATIONS BY ATTORNEY
3 GENERAL. (a) The Office of State Inspector General and the
4 attorney general shall execute a memorandum of understanding under
5 which the Office of State Inspector General shall provide
6 investigative support as required to the attorney general in
7 connection with cases under Subchapter B, Chapter 36, Human
8 Resources Code. Under the memorandum of understanding, the Office
9 of State Inspector General shall assist in performing preliminary
10 investigations and ongoing investigations for actions prosecuted
11 by the attorney general under Subchapter C, Chapter 36, Human
12 Resources Code.

13 (b) The memorandum of understanding must specify the type,
14 scope, and format of the investigative support provided to the
15 attorney general under this section.

16 (c) With respect to Medicaid fraud, the memorandum of
17 understanding must ensure that no barriers to direct fraud
18 referrals to the state's Medicaid fraud control unit by Medicaid
19 agencies or unreasonable impediments to communication between
20 Medicaid agency employees and the state's Medicaid fraud control
21 unit will be imposed.

22 SECTION 2. Section 20.038, Business & Commerce Code, is
23 amended to read as follows:

24 Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security
25 freeze does not apply to a consumer report provided to:

26 (1) a state or local governmental entity, including a
27 law enforcement agency or court or private collection agency, if

1 the entity, agency, or court is acting under a court order, warrant,
2 subpoena, or administrative subpoena;

3 (2) a child support agency as defined by Section
4 101.004, Family Code, acting to investigate or collect child
5 support payments or acting under Title IV-D of the Social Security
6 Act (42 U.S.C. Section 651 et seq.);

7 (3) the Office of State Inspector General [~~Health and~~
8 ~~Human Services Commission~~] acting to investigate fraud, waste, or
9 abuse in state agencies under Chapter 422, Government Code, or
10 other law [~~under Section 531.102, Government Code~~];

11 (4) the comptroller acting to investigate or collect
12 delinquent sales or franchise taxes;

13 (5) a tax assessor-collector acting to investigate or
14 collect delinquent ad valorem taxes;

15 (6) a person for the purposes of prescreening as
16 provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
17 seq.), as amended;

18 (7) a person with whom the consumer has an account or
19 contract or to whom the consumer has issued a negotiable
20 instrument, or the person's subsidiary, affiliate, agent,
21 assignee, prospective assignee, or private collection agency, for
22 purposes related to that account, contract, or instrument;

23 (8) a subsidiary, affiliate, agent, assignee, or
24 prospective assignee of a person to whom access has been granted
25 under Section 20.037(b);

26 (9) a person who administers a credit file monitoring
27 subscription service to which the consumer has subscribed;

1 (10) a person for the purpose of providing a consumer
2 with a copy of the consumer's report on the consumer's request;

3 (11) a check service or fraud prevention service
4 company that issues consumer reports:

5 (A) to prevent or investigate fraud; or

6 (B) for purposes of approving or processing
7 negotiable instruments, electronic funds transfers, or similar
8 methods of payment;

9 (12) a deposit account information service company
10 that issues consumer reports related to account closures caused by
11 fraud, substantial overdrafts, automated teller machine abuses, or
12 similar negative information regarding a consumer to an inquiring
13 financial institution for use by the financial institution only in
14 reviewing a consumer request for a deposit account with that
15 institution; or

16 (13) a consumer reporting agency that:

17 (A) acts only to resell credit information by
18 assembling and merging information contained in a database of
19 another consumer reporting agency or multiple consumer reporting
20 agencies; and

21 (B) does not maintain a permanent database of
22 credit information from which new consumer reports are produced.

23 SECTION 3. Article 2.12, Code of Criminal Procedure, is
24 amended to read as follows:

25 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
26 officers:

27 (1) sheriffs, their deputies, and those reserve

1 deputies who hold a permanent peace officer license issued under
2 Chapter 1701, Occupations Code;

3 (2) constables, deputy constables, and those reserve
4 deputy constables who hold a permanent peace officer license issued
5 under Chapter 1701, Occupations Code;

6 (3) marshals or police officers of an incorporated
7 city, town, or village, and those reserve municipal police officers
8 who hold a permanent peace officer license issued under Chapter
9 1701, Occupations Code;

10 (4) rangers and officers commissioned by the Public
11 Safety Commission and the Director of the Department of Public
12 Safety;

13 (5) investigators of the district attorneys', criminal
14 district attorneys', and county attorneys' offices;

15 (6) law enforcement agents of the Texas Alcoholic
16 Beverage Commission;

17 (7) each member of an arson investigating unit
18 commissioned by a city, a county, or the state;

19 (8) officers commissioned under Section 37.081,
20 Education Code, or Subchapter E, Chapter 51, Education Code;

21 (9) officers commissioned by the General Services
22 Commission;

23 (10) law enforcement officers commissioned by the
24 Parks and Wildlife Commission;

25 (11) airport police officers commissioned by a city
26 with a population of more than 1.18 million that operates an airport
27 that serves commercial air carriers;

1 (12) airport security personnel commissioned as peace
2 officers by the governing body of any political subdivision of this
3 state, other than a city described by Subdivision (11), that
4 operates an airport that serves commercial air carriers;

5 (13) municipal park and recreational patrolmen and
6 security officers;

7 (14) security officers and investigators commissioned
8 as peace officers by the comptroller;

9 (15) officers commissioned by a water control and
10 improvement district under Section 49.216, Water Code;

11 (16) officers commissioned by a board of trustees
12 under Chapter 54, Transportation Code;

13 (17) investigators commissioned by the Texas State
14 Board of Medical Examiners;

15 (18) officers commissioned by the board of managers of
16 the Dallas County Hospital District, the Tarrant County Hospital
17 District, or the Bexar County Hospital District under Section
18 281.057, Health and Safety Code;

19 (19) county park rangers commissioned under
20 Subchapter E, Chapter 351, Local Government Code;

21 (20) investigators employed by the Texas Racing
22 Commission;

23 (21) officers commissioned under Chapter 554,
24 Occupations Code;

25 (22) officers commissioned by the governing body of a
26 metropolitan rapid transit authority under Section 451.108,
27 Transportation Code, or by a regional transportation authority

1 under Section 452.110, Transportation Code;

2 (23) investigators commissioned by the attorney
3 general under Section 402.009, Government Code;

4 (24) security officers and investigators commissioned
5 as peace officers under Chapter 466, Government Code;

6 (25) an officer employed by the Texas Department of
7 Health under Section 431.2471, Health and Safety Code;

8 (26) officers appointed by an appellate court under
9 Subchapter F, Chapter 53, Government Code;

10 (27) officers commissioned by the state fire marshal
11 under Chapter 417, Government Code;

12 (28) an investigator commissioned by the commissioner
13 of insurance under Article 1.10D, Insurance Code;

14 (29) apprehension specialists commissioned by the
15 Texas Youth Commission as officers under Section 61.0931, Human
16 Resources Code;

17 (30) officers appointed by the executive director of
18 the Texas Department of Criminal Justice under Section 493.019,
19 Government Code;

20 (31) investigators commissioned by the Commission on
21 Law Enforcement Officer Standards and Education under Section
22 1701.160, Occupations Code;

23 (32) commission investigators commissioned by the
24 Texas Commission on Private Security under Section 1702.061(f),
25 Occupations Code;

26 (33) the fire marshal and any officers, inspectors, or
27 investigators commissioned by an emergency services district under

1 Chapter 775, Health and Safety Code; ~~and~~

2 (34) officers commissioned by the State Board of
3 Dental Examiners under Section 254.013, Occupations Code, subject
4 to the limitations imposed by that section; and

5 (35) officers commissioned by the Office of State
6 Inspector General under Chapter 422, Government Code.

7 SECTION 4. Subsection (c), Section 531.008, Government
8 Code, is amended to read as follows:

9 (c) The executive commissioner shall establish the
10 following divisions and offices within the commission:

11 (1) the eligibility services division to make
12 eligibility determinations for services provided through the
13 commission or a health and human services agency related to:

14 (A) the child health plan program;

15 (B) the financial assistance program under
16 Chapter 31, Human Resources Code;

17 (C) the medical assistance program under Chapter
18 32, Human Resources Code;

19 (D) the nutritional assistance programs under
20 Chapter 33, Human Resources Code;

21 (E) long-term care services, as defined by
22 Section 22.0011, Human Resources Code;

23 (F) community-based support services identified
24 or provided in accordance with Section 531.02481; and

25 (G) other health and human services programs, as
26 appropriate;

27 (2) ~~[the office of inspector general to perform fraud~~

1 ~~and abuse investigation and enforcement functions as provided by~~
2 ~~Subchapter C and other law;~~

3 [~~3~~] the office of the ombudsman to:

4 (A) provide dispute resolution services for the
5 commission and the health and human services agencies; and

6 (B) perform consumer protection functions
7 related to health and human services;

8 (3) [~~4~~] a purchasing division as provided by Section
9 531.017; and

10 (4) [~~5~~] an internal audit division to conduct a
11 program of internal auditing in accordance with Government Code,
12 Chapter 2102.

13 SECTION 5. Section 531.1011, Government Code, is amended to
14 read as follows:

15 Sec. 531.1011. DEFINITIONS. For purposes of this
16 subchapter:

17 (1) "Fraud" has the meaning assigned by Section
18 422.001 [~~means an intentional deception or misrepresentation made~~
19 ~~by a person with the knowledge that the deception could result in~~
20 ~~some unauthorized benefit to that person or some other person,~~
21 ~~including any act that constitutes fraud under applicable federal~~
22 ~~or state law].~~

23 (2) "Office" means the Office of State Inspector
24 General [~~"Furnished" refers to items or services provided directly~~
25 ~~by, or under the direct supervision of, or ordered by a practitioner~~
26 ~~or other individual (either as an employee or in the individual's~~
27 ~~own capacity), a provider, or other supplier of services, excluding~~

1 ~~services ordered by one party but billed for and provided by or~~
2 ~~under the supervision of another].~~

3 (3) ~~["Hold on payment" means the temporary denial of~~
4 ~~reimbursement under the Medicaid program for items or services~~
5 ~~furnished by a specified provider.~~

6 ~~[(4) "Practitioner" means a physician or other~~
7 ~~individual licensed under state law to practice the individual's~~
8 ~~profession.~~

9 ~~[(5) "Program exclusion" means the suspension of a~~
10 ~~provider from being authorized under the Medicaid program to~~
11 ~~request reimbursement of items or services furnished by that~~
12 ~~specific provider.~~

13 ~~[(6)] "Provider" means a person, firm, partnership,~~
14 ~~corporation, agency, association, institution, or other entity~~
15 ~~that was or is approved by the commission to:~~

16 (A) provide medical assistance under contract or
17 provider agreement with the commission; or

18 (B) provide third-party billing vendor services
19 under a contract or provider agreement with the commission.

20 SECTION 6. Section 531.102, Government Code, is amended to
21 read as follows:

22 Sec. 531.102. OFFICE OF STATE INSPECTOR GENERAL. ~~[(a)]~~ The
23 office ~~[commission, through the commission's office of inspector~~
24 ~~general,~~] is responsible for the investigation of fraud, waste, and
25 abuse in the provision of health and human services and the
26 enforcement of state law relating to the provision of those
27 services. ~~[The commission may obtain any information or technology~~

1 ~~necessary to enable the office to meet its responsibilities under~~
2 ~~this subchapter or other law.~~

3 ~~[(a-1) The governor shall appoint an inspector general to~~
4 ~~serve as director of the office. The inspector general serves a~~
5 ~~one-year term that expires on February 1.~~

6 ~~[(b) The commission, in consultation with the inspector~~
7 ~~general, shall set clear objectives, priorities, and performance~~
8 ~~standards for the office that emphasize:~~

9 ~~[(1) coordinating investigative efforts to~~
10 ~~aggressively recover money;~~

11 ~~[(2) allocating resources to cases that have the~~
12 ~~strongest supportive evidence and the greatest potential for~~
13 ~~recovery of money; and~~

14 ~~[(3) maximizing opportunities for referral of cases to~~
15 ~~the office of the attorney general in accordance with Section~~
16 ~~531.103.~~

17 ~~[(c) The commission shall train office staff to enable the~~
18 ~~staff to pursue priority Medicaid and other health and human~~
19 ~~services fraud and abuse cases as necessary.~~

20 ~~[(d) The commission may require employees of health and~~
21 ~~human services agencies to provide assistance to the office in~~
22 ~~connection with the office's duties relating to the investigation~~
23 ~~of fraud and abuse in the provision of health and human services.~~
24 ~~The office is entitled to access to any information maintained by a~~
25 ~~health and human services agency, including internal records,~~
26 ~~relevant to the functions of the office.~~

27 ~~[(e) The commission, in consultation with the inspector~~

1 ~~general, by rule shall set specific claims criteria that, when met,~~
2 ~~require the office to begin an investigation.~~

3 ~~[(f)(1) If the commission receives a complaint of Medicaid~~
4 ~~fraud or abuse from any source, the office must conduct an integrity~~
5 ~~review to determine whether there is sufficient basis to warrant a~~
6 ~~full investigation. An integrity review must begin not later than~~
7 ~~the 30th day after the date the commission receives a complaint or~~
8 ~~has reason to believe that fraud or abuse has occurred. An~~
9 ~~integrity review shall be completed not later than the 90th day~~
10 ~~after it began.~~

11 ~~[(2) If the findings of an integrity review give the~~
12 ~~office reason to believe that an incident of fraud or abuse~~
13 ~~involving possible criminal conduct has occurred in the Medicaid~~
14 ~~program, the office must take the following action, as appropriate,~~
15 ~~not later than the 30th day after the completion of the integrity~~
16 ~~review:~~

17 ~~[(A) if a provider is suspected of fraud or abuse~~
18 ~~involving criminal conduct, the office must refer the case to the~~
19 ~~state's Medicaid fraud control unit, provided that the criminal~~
20 ~~referral does not preclude the office from continuing its~~
21 ~~investigation of the provider, which investigation may lead to the~~
22 ~~imposition of appropriate administrative or civil sanctions, or~~

23 ~~[(B) if there is reason to believe that a~~
24 ~~recipient has defrauded the Medicaid program, the office may~~
25 ~~conduct a full investigation of the suspected fraud.~~

26 ~~[(g)(1) Whenever the office learns or has reason to suspect~~
27 ~~that a provider's records are being withheld, concealed, destroyed,~~

1 ~~fabricated, or in any way falsified, the office shall immediately~~
2 ~~refer the case to the state's Medicaid fraud control unit. However,~~
3 ~~such criminal referral does not preclude the office from continuing~~
4 ~~its investigation of the provider, which investigation may lead to~~
5 ~~the imposition of appropriate administrative or civil sanctions.~~

6 ~~[(2) In addition to other instances authorized under~~
7 ~~state or federal law, the office shall impose without prior notice a~~
8 ~~hold on payment of claims for reimbursement submitted by a provider~~
9 ~~to compel production of records or when requested by the state's~~
10 ~~Medicaid fraud control unit, as applicable. The office must notify~~
11 ~~the provider of the hold on payment not later than the fifth working~~
12 ~~day after the date the payment hold is imposed.~~

13 ~~[(3) On timely written request by a provider subject~~
14 ~~to a hold on payment under Subdivision (2), other than a hold~~
15 ~~requested by the state's Medicaid fraud control unit, the office~~
16 ~~shall file a request with the State Office of Administrative~~
17 ~~Hearings for an expedited administrative hearing regarding the~~
18 ~~hold. The provider must request an expedited hearing under this~~
19 ~~subdivision not later than the 10th day after the date the provider~~
20 ~~receives notice from the office under Subdivision (2).~~

21 ~~[(4) The commission shall adopt rules that allow a~~
22 ~~provider subject to a hold on payment under Subdivision (2), other~~
23 ~~than a hold requested by the state's Medicaid fraud control unit, to~~
24 ~~seek an informal resolution of the issues identified by the office~~
25 ~~in the notice provided under that subdivision. A provider must seek~~
26 ~~an informal resolution under this subdivision not later than the~~
27 ~~deadline prescribed by Subdivision (3). A provider's decision to~~

1 ~~seek an informal resolution under this subdivision does not extend~~
2 ~~the time by which the provider must request an expedited~~
3 ~~administrative hearing under Subdivision (3). However, a hearing~~
4 ~~initiated under Subdivision (3) shall be stayed at the office's~~
5 ~~request until the informal resolution process is completed.~~

6 ~~[(5) The office shall, in consultation with the~~
7 ~~state's Medicaid fraud control unit, establish guidelines under~~
8 ~~which holds on payment or program exclusions:~~

9 ~~[(A) may permissively be imposed on a provider,~~
10 ~~or~~

11 ~~[(B) shall automatically be imposed on a~~
12 ~~provider.~~

13 ~~[(h) In addition to performing functions and duties~~
14 ~~otherwise provided by law, the office may:~~

15 ~~[(1) assess administrative penalties otherwise~~
16 ~~authorized by law on behalf of the commission or a health and human~~
17 ~~services agency,~~

18 ~~[(2) request that the attorney general obtain an~~
19 ~~injunction to prevent a person from disposing of an asset~~
20 ~~identified by the office as potentially subject to recovery by the~~
21 ~~office due to the person's fraud or abuse,~~

22 ~~[(3) provide for coordination between the office and~~
23 ~~special investigative units formed by managed care organizations~~
24 ~~under Section 531.113 or entities with which managed care~~
25 ~~organizations contract under that section,~~

26 ~~[(4) audit the use and effectiveness of state or~~
27 ~~federal funds, including contract and grant funds, administered by~~

1 ~~a person or state agency receiving the funds from a health and human~~
2 ~~services agency;~~

3 ~~[(5) conduct investigations relating to the funds~~
4 ~~described by Subdivision (4); and~~

5 ~~[(6) recommend policies promoting economical and~~
6 ~~efficient administration of the funds described by Subdivision (4)~~
7 ~~and the prevention and detection of fraud and abuse in~~
8 ~~administration of those funds.~~

9 ~~[(i) Notwithstanding any other provision of law, a~~
10 ~~reference in law or rule to the commission's office of~~
11 ~~investigations and enforcement means the office of inspector~~
12 ~~general established under this section.~~

13 ~~[(j) The office shall prepare a final report on each audit~~
14 ~~or investigation conducted under this section. The final report~~
15 ~~must include:~~

16 ~~[(1) a summary of the activities performed by the~~
17 ~~office in conducting the audit or investigation;~~

18 ~~[(2) a statement regarding whether the audit or~~
19 ~~investigation resulted in a finding of any wrongdoing; and~~

20 ~~[(3) a description of any findings of wrongdoing.~~

21 ~~[(k) A final report on an audit or investigation is subject~~
22 ~~to required disclosure under Chapter 552. All information and~~
23 ~~materials compiled during the audit or investigation remain~~
24 ~~confidential and not subject to required disclosure in accordance~~
25 ~~with Section 531.1021(g).]~~

26 SECTION 7. Section 531.105, Government Code, is amended to
27 read as follows:

1 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office
2 [~~commission~~] shall develop and implement a program to provide
3 annual training to contractors who process Medicaid claims and
4 appropriate staff of the commission and other health and human
5 services agencies [~~the Texas Department of Health and the Texas~~
6 ~~Department of Human Services~~] in identifying potential cases of
7 fraud, waste, or abuse under the state Medicaid program. The
8 training provided to the contractors and staff must include clear
9 criteria that specify:

10 (1) the circumstances under which a person should
11 refer a potential case to the office [~~commission~~]; and

12 (2) the time by which a referral should be made.

13 (b) The commission and other health and human services
14 agencies [~~The Texas Department of Health and the Texas Department~~
15 ~~of Human Services~~], in cooperation with the office [~~commission~~],
16 shall periodically set a goal of the number of potential cases of
17 fraud, waste, or abuse under the state Medicaid program that each
18 agency will attempt to identify and refer to the office
19 [~~commission~~]. The office [~~commission~~] shall include information on
20 the agencies' goals and the success of each agency in meeting the
21 agency's goal in the report required by Section 422.114
22 [~~531.103(c)~~].

23 SECTION 8. Subsections (a), (b), and (d) through (g),
24 Section 531.106, Government Code, are amended to read as follows:

25 (a) The office [~~commission~~] shall use learning or neural
26 network technology to identify and deter fraud in the Medicaid
27 program throughout this state.

1 (b) The office [~~commission~~] shall contract with a private or
2 public entity to develop and implement the technology. The office
3 [~~commission~~] may require the entity it contracts with to install
4 and operate the technology at locations specified by the office
5 [~~commission~~], including Office of State Inspector General
6 [~~commission~~] offices.

7 (d) The office [~~commission~~] shall require each health and
8 human services agency that performs any aspect of the state
9 Medicaid program to participate in the implementation and use of
10 the technology.

11 (e) The office [~~commission~~] shall maintain all information
12 necessary to apply the technology to claims data covering a period
13 of at least two years.

14 (f) The office [~~commission~~] shall investigate [~~refer~~] cases
15 identified by the technology and shall refer cases to the
16 [~~commission's office of investigations and enforcement or the~~]
17 office of the attorney general for prosecution, as appropriate.

18 (g) Each month, the learning or neural network technology
19 implemented under this section must match bureau of vital
20 statistics death records with Medicaid claims filed by a provider.
21 If the office [~~commission~~] determines that a provider has filed a
22 claim for services provided to a person after the person's date of
23 death, as determined by the bureau of vital statistics death
24 records, the office [~~commission~~] shall investigate [~~refer~~] the case
25 [~~for investigation to the commission's office of investigations and~~
26 ~~enforcement~~].

27 SECTION 9. Section 531.1061, Government Code, is amended to

1 read as follows:

2 Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM.

3 (a) The office [~~commission~~] shall use an automated fraud
4 investigation tracking system [~~through the commission's office of~~
5 ~~investigations and enforcement~~] to monitor the progress of an
6 investigation of suspected fraud, waste, abuse, or insufficient
7 quality of care under the state Medicaid program.

8 (b) For each case of suspected fraud, waste, abuse, or
9 insufficient quality of care identified by the learning or neural
10 network technology required under Section 531.106, the automated
11 fraud investigation tracking system must:

12 (1) receive electronically transferred records
13 relating to the identified case from the learning or neural network
14 technology;

15 (2) record the details and monitor the status of an
16 investigation of the identified case, including maintaining a
17 record of the beginning and completion dates for each phase of the
18 case investigation;

19 (3) generate documents and reports related to the
20 status of the case investigation; and

21 (4) generate standard letters to a provider regarding
22 the status or outcome of an investigation.

23 (c) The office [~~commission~~] shall require each health and
24 human services agency that performs any aspect of the state
25 Medicaid program to participate in the implementation and use of
26 the automated fraud investigation tracking system.

27 SECTION 10. Subsection (a), Section 531.1062, Government

1 Code, is amended to read as follows:

2 (a) The office [~~commission~~] shall use an automated recovery
3 monitoring system to monitor the collections process for a settled
4 case of fraud, waste, abuse, or insufficient quality of care under
5 the state Medicaid program.

6 SECTION 11. Subsections (a), (b), and (f), Section 531.107,
7 Government Code, are amended to read as follows:

8 (a) The Medicaid and Public Assistance Fraud Oversight Task
9 Force advises and assists the [~~commission and the commission's~~]
10 office [~~of investigations and enforcement~~] in improving the
11 efficiency of fraud investigations and collections.

12 (b) The task force is composed of a representative of the:

13 (1) attorney general's office, appointed by the
14 attorney general;

15 (2) comptroller's office, appointed by the
16 comptroller;

17 (3) Department of Public Safety, appointed by the
18 public safety director;

19 (4) state auditor's office, appointed by the state
20 auditor;

21 (5) Office of State Inspector General, appointed by
22 the state inspector general [~~commission, appointed by the~~
23 ~~commissioner of health and human services~~];

24 (6) [~~Texas~~] Department of Aging and Disability [~~Human~~]
25 Services, appointed by the commissioner of aging and disability
26 [~~human~~] services;

27 (7) Texas Department of Insurance, appointed by the

1 commissioner of insurance; and

2 (8) ~~[Texas]~~ Department of State Health Services,
3 appointed by the commissioner of state ~~[public]~~ health services.

4 (f) At least once each fiscal quarter, the ~~[commission's]~~
5 office ~~[of investigations and enforcement]~~ shall provide to the
6 task force:

7 (1) information detailing:

8 (A) the number of fraud referrals made to the
9 office and the origin of each referral;

10 (B) the time spent investigating each case;

11 (C) the number of cases investigated each month,
12 by program and region;

13 (D) the dollar value of each fraud case that
14 results in a criminal conviction; and

15 (E) the number of cases the office rejects and
16 the reason for rejection, by region; and

17 (2) any additional information the task force
18 requires.

19 SECTION 12. Section 531.108, Government Code, is amended to
20 read as follows:

21 Sec. 531.108. FRAUD PREVENTION. (a) ~~[The commission's~~
22 ~~office of investigations and enforcement shall compile and~~
23 ~~disseminate accurate information and statistics relating to:~~

24 ~~[(1) fraud prevention, and~~

25 ~~[(2) post-fraud referrals received and accepted or~~
26 ~~rejected from the commission's case management system or the case~~
27 ~~management system of a health and human services agency.~~

1 ~~[(b) The commission shall:~~

2 ~~[(1) aggressively publicize successful fraud~~
3 ~~prosecutions and fraud-prevention programs through all available~~
4 ~~means, including the use of statewide press releases issued in~~
5 ~~coordination with the Texas Department of Human Services; and~~

6 ~~[(2) ensure that a toll-free hotline for reporting~~
7 ~~suspected fraud in programs administered by the commission or a~~
8 ~~health and human services agency is maintained and promoted, either~~
9 ~~by the commission or by a health and human services agency.~~

10 ~~[(c)]~~ The office ~~[commission]~~ shall develop a
11 cost-effective method of identifying applicants for public
12 assistance in counties bordering other states and in metropolitan
13 areas selected by the office ~~[commission]~~ who are already receiving
14 benefits in other states. If economically feasible, the office
15 ~~[commission]~~ may develop a computerized matching system.

16 (b) ~~[(d)]~~ The office ~~[commission]~~ shall:

17 (1) verify automobile information that is used as
18 criteria for eligibility; and

19 (2) establish a computerized matching system with the
20 Texas Department of Criminal Justice to prevent an incarcerated
21 individual from illegally receiving public assistance benefits
22 administered by the commission.

23 (c) ~~[(e)]~~ The office ~~[commission]~~ shall submit to the
24 governor and Legislative Budget Board a semiannual report on the
25 results of computerized matching of office ~~[commission]~~
26 information with information from neighboring states, if any, and
27 information from the Texas Department of Criminal Justice. The

1 report may be consolidated with any other report relating to the
2 same subject matter the office [~~commission~~] is required to submit
3 under other law.

4 SECTION 13. Section 531.109, Government Code, is amended to
5 read as follows:

6 Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The
7 office [~~commission~~] shall annually select and review a random,
8 statistically valid sample of all claims for reimbursement under
9 the state Medicaid program, including the vendor drug program, for
10 potential cases of fraud, waste, or abuse.

11 (b) In conducting the annual review of claims under
12 Subsection (a), the office [~~commission~~] may directly contact a
13 recipient by telephone or in person, or both, to verify that the
14 services for which a claim for reimbursement was submitted by a
15 provider were actually provided to the recipient.

16 (c) Based on the results of the annual review of claims, the
17 office [~~commission~~] shall determine the types of claims at which
18 office [~~commission~~] resources for fraud, waste, and abuse detection
19 should be primarily directed.

20 SECTION 14. Subsections (a) and (c) through (f), Section
21 531.110, Government Code, are amended to read as follows:

22 (a) The office [~~commission~~] shall conduct electronic data
23 matches for a recipient of assistance under the state Medicaid
24 program at least quarterly to verify the identity, income,
25 employment status, and other factors that affect the eligibility of
26 the recipient.

27 (c) The commission and other health and human services

1 agencies [~~Texas Department of Human Services~~] shall cooperate with
2 the office [~~commission~~] by providing data or any other assistance
3 necessary to conduct the electronic data matches required by this
4 section.

5 (d) The office [~~commission~~] may contract with a public or
6 private entity to conduct the electronic data matches required by
7 this section.

8 (e) The office [~~commission, or a health and human services~~
9 ~~agency designated by the commission,~~] by rule shall establish
10 procedures to verify the electronic data matches conducted by the
11 office [~~commission~~] under this section. Not later than the 20th day
12 after the date the electronic data match is verified, the
13 commission and other health and human services agencies [~~Texas~~
14 ~~Department of Human Services~~] shall remove from eligibility a
15 recipient who is determined to be ineligible for assistance under
16 the state Medicaid program.

17 (f) The office [~~commission~~] shall report biennially to the
18 legislature the results of the electronic data matching program.
19 The report must include a summary of the number of applicants who
20 were removed from eligibility for assistance under the state
21 Medicaid program as a result of an electronic data match conducted
22 under this section.

23 SECTION 15. Section 531.111, Government Code, is amended to
24 read as follows:

25 Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The office
26 [~~commission~~] may contract with a contractor who specializes in
27 developing technology capable of identifying patterns of fraud

1 exhibited by Medicaid recipients to:

2 (1) develop and implement the fraud detection
3 technology; and

4 (2) determine if a pattern of fraud by Medicaid
5 recipients is present in the recipients' eligibility files
6 maintained by the commission and other health and human services
7 agencies [~~Texas Department of Human Services~~].

8 SECTION 16. Section 531.113, Government Code, is amended to
9 read as follows:

10 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL
11 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care
12 organization that provides or arranges for the provision of health
13 care services to an individual under a government-funded program,
14 including the Medicaid program and the child health plan program,
15 shall:

16 (1) establish and maintain a special investigative
17 unit within the managed care organization to investigate fraudulent
18 claims and other types of program waste or abuse by recipients and
19 service providers; or

20 (2) contract with another entity for the investigation
21 of fraudulent claims and other types of program waste or abuse by
22 recipients and service providers.

23 (b) Each managed care organization subject to this section
24 shall adopt a plan to prevent and reduce fraud, waste, and abuse and
25 annually file that plan with the [~~commission's~~] office [~~of~~
26 ~~inspector general~~] for approval. The plan must include:

27 (1) a description of the managed care organization's

1 procedures for detecting and investigating possible acts of fraud,
2 waste, or abuse;

3 (2) a description of the managed care organization's
4 procedures for the mandatory reporting of possible acts of fraud,
5 waste, or abuse to the [~~commission's~~] office [~~of inspector~~
6 ~~general~~];

7 (3) a description of the managed care organization's
8 procedures for educating and training personnel to prevent fraud,
9 waste, and abuse;

10 (4) the name, address, telephone number, and fax
11 number of the individual responsible for carrying out the plan;

12 (5) a description or chart outlining the
13 organizational arrangement of the managed care organization's
14 personnel responsible for investigating and reporting possible
15 acts of fraud, waste, or abuse;

16 (6) a detailed description of the results of
17 investigations of fraud, waste, and abuse conducted by the managed
18 care organization's special investigative unit or the entity with
19 which the managed care organization contracts under Subsection
20 (a)(2); and

21 (7) provisions for maintaining the confidentiality of
22 any patient information relevant to an investigation of fraud,
23 waste, or abuse.

24 (c) If a managed care organization contracts for the
25 investigation of fraudulent claims and other types of program waste
26 or abuse by recipients and service providers under Subsection
27 (a)(2), the managed care organization shall file with the

1 ~~[commission's]~~ office ~~[of inspector general]~~:

2 (1) a copy of the written contract;

3 (2) the names, addresses, telephone numbers, and fax
4 numbers of the principals of the entity with which the managed care
5 organization has contracted; and

6 (3) a description of the qualifications of the
7 principals of the entity with which the managed care organization
8 has contracted.

9 (d) The ~~[commission's]~~ office ~~[of inspector general]~~ may
10 review the records of a managed care organization to determine
11 compliance with this section.

12 (e) The office ~~[commissioner]~~ shall adopt rules as
13 necessary to accomplish the purposes of this section.

14 SECTION 17. Subsections (b) and (g), Section 531.114,
15 Government Code, are amended to read as follows:

16 (b) If after an investigation the office ~~[commission]~~
17 determines that a person violated Subsection (a), the office
18 ~~[commission]~~ shall:

19 (1) notify the person of the alleged violation not
20 later than the 30th day after the date the office ~~[commission]~~
21 completes the investigation and provide the person with an
22 opportunity for a hearing on the matter; or

23 (2) refer the matter to the appropriate prosecuting
24 attorney for prosecution.

25 (g) The office ~~[commission]~~ shall adopt rules as necessary
26 to implement this section.

27 SECTION 18. Subsection (a), Section 533.005, Government

1 Code, is amended to read as follows:

2 (a) A contract between a managed care organization and the
3 commission for the organization to provide health care services to
4 recipients must contain:

5 (1) procedures to ensure accountability to the state
6 for the provision of health care services, including procedures for
7 financial reporting, quality assurance, utilization review, and
8 assurance of contract and subcontract compliance;

9 (2) capitation rates that ensure the cost-effective
10 provision of quality health care;

11 (3) a requirement that the managed care organization
12 provide ready access to a person who assists recipients in
13 resolving issues relating to enrollment, plan administration,
14 education and training, access to services, and grievance
15 procedures;

16 (4) a requirement that the managed care organization
17 provide ready access to a person who assists providers in resolving
18 issues relating to payment, plan administration, education and
19 training, and grievance procedures;

20 (5) a requirement that the managed care organization
21 provide information and referral about the availability of
22 educational, social, and other community services that could
23 benefit a recipient;

24 (6) procedures for recipient outreach and education;

25 (7) a requirement that the managed care organization
26 make payment to a physician or provider for health care services
27 rendered to a recipient under a managed care plan not later than the

1 45th day after the date a claim for payment is received with
2 documentation reasonably necessary for the managed care
3 organization to process the claim, or within a period, not to exceed
4 60 days, specified by a written agreement between the physician or
5 provider and the managed care organization;

6 (8) a requirement that the commission, on the date of a
7 recipient's enrollment in a managed care plan issued by the managed
8 care organization, inform the organization of the recipient's
9 Medicaid certification date;

10 (9) a requirement that the managed care organization
11 comply with Section 533.006 as a condition of contract retention
12 and renewal;

13 (10) a requirement that the managed care organization
14 provide the information required by Section 533.012 and otherwise
15 comply and cooperate with the Office [~~commission's office~~] of State
16 Inspector General [~~inspector general~~];

17 (11) a requirement that the managed care
18 organization's usages of out-of-network providers or groups of
19 out-of-network providers may not exceed limits for those usages
20 relating to total inpatient admissions, total outpatient services,
21 and emergency room admissions determined by the commission;

22 (12) if the commission finds that a managed care
23 organization has violated Subdivision (11), a requirement that the
24 managed care organization reimburse an out-of-network provider for
25 health care services at a rate that is equal to the allowable rate
26 for those services, as determined under Sections 32.028 and
27 32.0281, Human Resources Code;

1 (13) a requirement that the organization use advanced
2 practice nurses in addition to physicians as primary care providers
3 to increase the availability of primary care providers in the
4 organization's provider network;

5 (14) a requirement that the managed care organization
6 reimburse a federally qualified health center or rural health
7 clinic for health care services provided to a recipient outside of
8 regular business hours, including on a weekend day or holiday, at a
9 rate that is equal to the allowable rate for those services as
10 determined under Section 32.028, Human Resources Code, if the
11 recipient does not have a referral from the recipient's primary
12 care physician; and

13 (15) a requirement that the managed care organization
14 develop, implement, and maintain a system for tracking and
15 resolving all provider appeals related to claims payment, including
16 a process that will require:

17 (A) a tracking mechanism to document the status
18 and final disposition of each provider's claims payment appeal;

19 (B) the contracting with physicians who are not
20 network providers and who are of the same or related specialty as
21 the appealing physician to resolve claims disputes related to
22 denial on the basis of medical necessity that remain unresolved
23 subsequent to a provider appeal; and

24 (C) the determination of the physician resolving
25 the dispute to be binding on the managed care organization and
26 provider.

27 SECTION 19. Subsections (a), (b), (c), and (e), Section

1 533.012, Government Code, are amended to read as follows:

2 (a) Each managed care organization contracting with the
3 commission under this chapter shall submit to the Office of State
4 Inspector General [~~commission~~]:

5 (1) a description of any financial or other business
6 relationship between the organization and any subcontractor
7 providing health care services under the contract;

8 (2) a copy of each type of contract between the
9 organization and a subcontractor relating to the delivery of or
10 payment for health care services;

11 (3) a description of the fraud control program used by
12 any subcontractor that delivers health care services; and

13 (4) a description and breakdown of all funds paid to
14 the managed care organization, including a health maintenance
15 organization, primary care case management, and an exclusive
16 provider organization, necessary for the office [~~commission~~] to
17 determine the actual cost of administering the managed care plan.

18 (b) The information submitted under this section must be
19 submitted in the form required by the Office of State Inspector
20 General [~~commission~~] and be updated as required by the office
21 [~~commission~~].

22 (c) The Office [~~commission's office~~] of State Inspector
23 General [~~investigations and enforcement~~] shall review the
24 information submitted under this section as appropriate in the
25 investigation of fraud in the Medicaid managed care program. The
26 comptroller may review the information in connection with the
27 health care fraud study conducted by the comptroller.

1 (e) Information submitted to the Office of State Inspector
2 General [~~commission~~] under Subsection (a)(1) is confidential and
3 not subject to disclosure under Chapter 552[~~, Government Code~~].

4 SECTION 20. Subsection (b), Section 2054.376, Government
5 Code, is amended to read as follows:

6 (b) This subchapter does not apply to:

7 (1) the Department of Public Safety's use for criminal
8 justice or homeland security purposes of a federal database or
9 network;

10 (2) a Texas equivalent of a database or network
11 described by Subdivision (1) that is managed by the Department of
12 Public Safety;

13 (3) the uniform statewide accounting system, as that
14 term is used in Subchapter C, Chapter 2101;

15 (4) the state treasury cash and treasury management
16 system; [~~or~~]

17 (5) a database or network managed by the comptroller
18 to:

19 (A) collect and process multiple types of taxes
20 imposed by the state; or

21 (B) manage or administer fiscal, financial,
22 revenue, and expenditure activities of the state under Chapter 403
23 and Chapter 404; or

24 (6) the Office of State Inspector General's use, for
25 criminal justice and statutorily mandated confidentiality
26 purposes, of a federal or state database or network.

27 SECTION 21. Subsection (b), Section 21.014, Human Resources

1 Code, is amended to read as follows:

2 (b) The state [~~person employed by the department as~~]
3 inspector general shall make reports to and consult with the
4 chairman of the board regarding:

- 5 (1) the selection of internal audit topics;
6 (2) the establishment of internal audit priorities;
7 and
8 (3) the findings of each regular or special internal
9 audit initiative.

10 SECTION 22. Section 32.003, Human Resources Code, is
11 amended by adding Subdivision (3-a) to read as follows:

12 (3-a) "Inspector general's office" means the Office of
13 State Inspector General.

14 SECTION 23. Section 32.0291, Human Resources Code, is
15 amended to read as follows:

16 Sec. 32.0291. PREPAYMENT REVIEWS AND POST PAYMENT HOLDS.

17 (a) Notwithstanding any other law, the inspector general's office
18 [~~department~~] may:

19 (1) perform a prepayment review of a claim for
20 reimbursement under the medical assistance program to determine
21 whether the claim involves fraud, waste, or abuse; and

22 (2) as necessary to perform that review, withhold
23 payment of the claim for not more than five working days without
24 notice to the person submitting the claim.

25 (b) Notwithstanding any other law, the inspector general's
26 office [~~department~~] may impose a postpayment hold on payment of
27 future claims submitted by a provider if the office [~~department~~]

1 has reliable evidence that the provider has committed fraud, waste,
2 abuse, or wilful misrepresentation regarding a claim for
3 reimbursement under the medical assistance program. The office
4 [~~department~~] must notify the provider of the postpayment hold not
5 later than the fifth working day after the date the hold is imposed.

6 (c) On timely written request by a provider subject to a
7 postpayment hold under Subsection (b), the inspector general's
8 office [~~department~~] shall file a request with the State Office of
9 Administrative Hearings for an expedited administrative hearing
10 regarding the hold. The provider must request an expedited hearing
11 under this subsection not later than the 10th day after the date the
12 provider receives notice from the office [~~department~~] under
13 Subsection (b). The office [~~department~~] shall discontinue the hold
14 unless the office [~~department~~] makes a prima facie showing at the
15 hearing that the evidence relied on by the office [~~department~~] in
16 imposing the hold is relevant, credible, and material to the issue
17 of fraud, waste, abuse, or wilful misrepresentation.

18 (d) The inspector general's office [~~department~~] shall adopt
19 rules that allow a provider subject to a postpayment hold under
20 Subsection (b) to seek an informal resolution of the issues
21 identified by the office [~~department~~] in the notice provided under
22 that subsection. A provider must seek an informal resolution under
23 this subsection not later than the deadline prescribed by
24 Subsection (c). A provider's decision to seek an informal
25 resolution under this subsection does not extend the time by which
26 the provider must request an expedited administrative hearing under
27 Subsection (c). However, a hearing initiated under Subsection (c)

1 shall be stayed at the office's [~~department's~~] request until the
2 informal resolution process is completed.

3 SECTION 24. Section 32.032, Human Resources Code, is
4 amended to read as follows:

5 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD AND ABUSE.
6 The inspector general's office [~~department~~] shall adopt reasonable
7 rules for minimizing the opportunity for fraud and abuse, for
8 establishing and maintaining methods for detecting and identifying
9 situations in which a question of fraud or abuse in the program may
10 exist, and for referring cases where fraud or abuse appears to exist
11 to the appropriate law enforcement agencies for prosecution.

12 SECTION 25. Subsections (a) through (d), Section 32.0321,
13 Human Resources Code, are amended to read as follows:

14 (a) The inspector general's office [~~department~~] by rule may
15 require each provider of medical assistance in a provider type that
16 has demonstrated significant potential for fraud or abuse to
17 file with the office [~~department~~] a surety bond in a reasonable
18 amount. The office [~~department~~] by rule shall require a provider of
19 medical assistance to file with the office [~~department~~] a surety
20 bond in a reasonable amount if the office [~~department~~] identifies a
21 pattern of suspected fraud or abuse involving criminal conduct
22 relating to the provider's services under the medical assistance
23 program that indicates the need for protection against potential
24 future acts of fraud or abuse.

25 (b) The bond under Subsection (a) must be payable to the
26 inspector general's office [~~department~~] to compensate the office
27 [~~department~~] for damages resulting from or penalties or fines

1 imposed in connection with an act of fraud or abuse committed by the
2 provider under the medical assistance program.

3 (c) Subject to Subsection (d) or (e), the inspector
4 general's office [~~department~~] by rule may require each provider of
5 medical assistance that establishes a resident's trust fund account
6 to post a surety bond to secure the account. The bond must be
7 payable to the office [~~department~~] to compensate residents of the
8 bonded provider for trust funds that are lost, stolen, or otherwise
9 unaccounted for if the provider does not repay any deficiency in a
10 resident's trust fund account to the person legally entitled to
11 receive the funds.

12 (d) The inspector general's office [~~department~~] may not
13 require the amount of a surety bond posted for a single facility
14 provider under Subsection (c) to exceed the average of the total
15 average monthly balance of all the provider's resident trust fund
16 accounts for the 12-month period preceding the bond issuance or
17 renewal date.

18 SECTION 26. Section 32.0322, Human Resources Code, is
19 amended to read as follows:

20 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION.

21 (a) The inspector general's office and the department may obtain
22 from any law enforcement or criminal justice agency the criminal
23 history record information that relates to a provider under the
24 medical assistance program or a person applying to enroll as a
25 provider under the medical assistance program.

26 (b) The inspector general's office [~~department~~] by rule
27 shall establish criteria for revoking a provider's enrollment or

1 denying a person's application to enroll as a provider under the
2 medical assistance program based on the results of a criminal
3 history check.

4 SECTION 27. Subsection (d), Section 32.070, Human Resources
5 Code, is amended to read as follows:

6 (d) This section does not apply to a computerized audit
7 conducted using the Medicaid Fraud Detection Audit System or an
8 audit or investigation of fraud and abuse conducted by the Medicaid
9 fraud control unit of the office of the attorney general, the office
10 of the state auditor, the inspector general's office [~~of the~~
11 ~~inspector general~~], or the Office of Inspector General in the
12 United States Department of Health and Human Services.

13 SECTION 28. Subsection (e), Section 33.015, Human Resources
14 Code, is amended to read as follows:

15 (e) The department shall require a person exempted under
16 this section from making a personal appearance at department
17 offices to provide verification of the person's entitlement to the
18 exemption on initial eligibility certification and on each
19 subsequent periodic eligibility recertification. If the person
20 does not provide verification and the department considers the
21 verification necessary to protect the integrity of the food stamp
22 program, the department shall initiate a fraud referral to the
23 Office [~~department's office~~] of State Inspector General [~~inspector~~
24 ~~general~~].

25 SECTION 29. The following sections of the Government Code
26 are repealed:

27 (1) Section 531.101;

- 1 (2) Section 531.1021;
- 2 (3) Section 531.103; and
- 3 (4) Section 531.104.

4 SECTION 30. (a) The Office of State Inspector General
5 under Chapter 422, Government Code, as added by this Act, is created
6 on the effective date of this Act.

7 (b) On January 1, 2008, the office of inspector general of
8 the Health and Human Services Commission created under Section
9 531.102, Government Code, as that section existed before amendment
10 by this Act, is abolished.

11 (c) Not later than January 1, 2008:

12 (1) all powers, duties, obligations, rights,
13 contracts, records, personal property, unspent appropriations,
14 state and federal funds, including overhead costs, support costs,
15 and lease or colocation costs, of the office of inspector general of
16 the Health and Human Services Commission shall be transferred, as
17 consistent with this Act, to the Office of State Inspector General;

18 (2) all personnel, vacant full-time equivalent
19 positions, and assets assigned, as of the effective date of this
20 Act, to the office of inspector general of the Health and Human
21 Services Commission or engaged in the performance of the functions
22 of that office shall be transferred, as consistent with this Act, to
23 the Office of State Inspector General;

24 (3) each state agency for which a state agency
25 inspector general is designated by the state inspector general on
26 or before October 1, 2007, shall transfer to the Office of State
27 Inspector General, as consistent with this Act, all personnel,

1 vacant full-time equivalent positions, and assets engaged in the
2 performance of or the support of agency functions relating to the
3 detection, investigation, and prevention of fraud, waste, and abuse
4 in the implementation or administration of state or federally
5 funded programs;

6 (4) all state and federal funding, including funding
7 for overhead costs, support costs, and lease or colocation lease
8 costs, for the functions to be transferred to the Office of State
9 Inspector General shall be reallocated to that office; and

10 (5) for purposes of federal single state agency
11 funding requirements, any federal funds that may not be
12 appropriated directly to the Office of State Inspector General
13 shall be transferred from the single state agency receiving the
14 funds to the Office of State Inspector General if the funds are
15 intended for a function performed by that office.

16 (d) All future federal funding to be allocated to the office
17 of inspector general of the Health and Human Services Commission,
18 including drawing funds and transferring funds, shall be
19 renegotiated by the state inspector general for reallocation to the
20 Office of State Inspector General.

21 (e) A state agency for which a state agency inspector
22 general is designated by the state inspector general after October
23 1, 2007, shall within 90 days after the designation transfer to the
24 Office of State Inspector General, as consistent with this Act, all
25 personnel, vacant full-time equivalent positions, and assets
26 engaged in the performance of or the support of agency functions
27 relating to the detection, investigation, and prevention of fraud,

1 waste, and abuse in the implementation or administration of state
2 or federally funded programs.

3 SECTION 31. (a) The Health and Human Services Commission
4 shall take all action necessary to provide for the orderly transfer
5 of the assets and responsibilities of the commission's office of
6 inspector general to the Office of State Inspector General. In the
7 event a transfer is not completed by the date required under this
8 Act, all possible efforts shall be made to promptly conclude the
9 transfer.

10 (b) A rule or form adopted by the office of inspector
11 general of the Health and Human Services Commission is a rule or
12 form of the Office of State Inspector General and remains in effect
13 until changed by the Office of State Inspector General.

14 (c) A reference in law or administrative rule to the office
15 of inspector general of the Health and Human Services Commission
16 means the Office of State Inspector General.

17 SECTION 32. (a) The amendment by this Act of Section
18 531.102, Government Code, does not affect the entitlement of the
19 person appointed as inspector general under Subsection (a-1) of
20 that section to serve out the remainder of the person's term and
21 carry out the functions of state inspector general in the same
22 manner as a state inspector general appointed under Chapter 422,
23 Government Code, as added by this Act, for the remainder of the
24 person's term.

25 (b) This section does not prohibit a person described by
26 Subsection (a) of this section from being appointed under Chapter
27 422, Government Code, as added by this Act, if the person has the

1 qualifications required under that chapter.

2 (c) As soon as possible after the term of the inspector
3 general under Section 531.102, Government Code, expires or after
4 the office of inspector general otherwise becomes vacant at an
5 earlier date, the governor shall appoint a state inspector general
6 under Chapter 422, Government Code, as added by this Act, to an
7 initial term expiring February 1, 2009.

8 SECTION 33. (a) The amendment by this Act of Section
9 531.102, Government Code, does not affect the validity of a
10 complaint, investigation, or other proceeding initiated under that
11 section before the effective date of this Act. A complaint,
12 investigation, or other proceeding initiated under that section is
13 transferred without change to the Office of State Inspector General
14 created under Chapter 422, Government Code, as added by this Act.

15 (b) The repeal by this Act of Section 531.1021, Government
16 Code, does not affect the validity of a subpoena issued under that
17 section before the effective date of this Act. A subpoena issued
18 under that section before the effective date of this Act is governed
19 by the law that existed when the subpoena was issued, and the former
20 law is continued in effect for that purpose.

21 (c) The abolition by this Act of the office of inspector
22 general of the Health and Human Services Commission created under
23 Section 531.102, Government Code, as that section existed before
24 amendment by this Act, does not affect the validity of an action
25 taken by that office before it is abolished.

26 SECTION 34. If before implementing any provision of this
27 Act a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 35. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2007.