

By: Gattis

H.B. No. 2426

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the office of inspector general and the appointment of deputy inspector generals at the Health and Human Services Commission, Texas Youth Commission, Texas Department of Criminal Justice, Texas Education Agency, and Texas Department of Transportation; providing penalties.

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 INSPECTOR GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. SHORT TITLE. This chapter may be cited as the Texas Inspector General Act.

Sec. 422.002. DEFINITIONS. In this chapter:

(1) "Agency" means a state agency subject to this chapter under Section 422.004.

(2) "Commission" means the Health and Human Services Commission.

(3) "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. The term includes any act that constitutes fraud under applicable federal or state law.

(4) "Furnished," in reference to items or services:

1 (A) means items or services provided directly by,
2 provided under the direct supervision of, or ordered by:

3 (i) a physician or other individual
4 licensed under state law to practice the individual's profession,
5 either as an employee or in the individual's own capacity;

6 (ii) a provider; or

7 (iii) another supplier of services; and

8 (B) does not include services ordered by one
9 party but billed for and provided by or under the supervision of
10 another.

11 (5) "Hold on payment" means the temporary denial of
12 reimbursement under a federal program for items or services
13 furnished by a specified provider.

14 (6) "Inspector general" means the inspector general
15 appointed under Section 422.101.

16 (7) "Office" means the office of inspector general
17 established under this chapter.

18 (8) "Program exclusion" means the suspension of a
19 provider's authorization under a federal program to request
20 reimbursement for items or services furnished by that provider.

21 (9) "Provider" means a person, firm, partnership,
22 corporation, agency, association, institution, or other entity
23 that was or is approved by the commission to provide:

24 (A) medical assistance under contract or
25 provider agreement with the commission; or

26 (B) third-party billing vendor services under a
27 contract or provider agreement with the commission.

1 (10) "Review" includes an audit, inspection,
2 investigation, evaluation, or similar activity.

3 (11) "State funds" or "state money" includes federal
4 funds or money received and appropriated by the state or for which
5 the state has oversight responsibility.

6 Sec. 422.003. APPLICATION OF SUNSET ACT. The office of
7 inspector general is subject to Chapter 325 (Texas Sunset Act).
8 Unless continued in existence as provided by that chapter, the
9 office is abolished and this chapter expires September 1, 2021.

10 Sec. 422.004. APPLICABILITY. (a) Except as provided by
11 Subsection (c), this chapter applies only to the:

12 (1) Health and Human Services Commission;

13 (2) Texas Youth Commission;

14 (3) Texas Department of Criminal Justice;

15 (4) Texas Education Agency; and

16 (5) Texas Department of Transportation.

17 (b) A state agency may not establish an office of inspector
18 general without specific legislative authorization.

19 (c) A health and human services agency as defined by Section
20 531.001 is an agency to which this chapter applies for purposes
21 related to the review and investigatory authority of the office.

22 Sec. 422.005. REFERENCE IN OTHER LAW. (a) Notwithstanding
23 any other provision of law, a reference in law or rule to an
24 agency's office of inspector general means, for an agency to which
25 this chapter applies, the office of inspector general established
26 under this chapter.

27 (b) Notwithstanding any other provision of law, a reference

1 in law or rule to the commission's office of investigations and
2 enforcement or the commission's office of inspector general means
3 the office of inspector general established under this chapter.

4 Sec. 422.006. INTERFERENCE PROHIBITED. The governor, the
5 legislature or a committee of the legislature, or a state agency may
6 not prevent the inspector general or a deputy inspector general
7 from initiating, performing, or completing an investigation,
8 audit, or review or any other compliance or enforcement activity
9 pursued by the office under this chapter or other law.

10 [Sections 422.007-422.050 reserved for expansion]

11 SUBCHAPTER B. ADMINISTRATION

12 Sec. 422.051. OFFICE OF INSPECTOR GENERAL. (a) The office
13 of inspector general is an agency of this state.

14 (b) The office is governed by the inspector general.

15 (c) The office shall have its principal office and
16 headquarters in Austin.

17 Sec. 422.052. INDEPENDENCE OF OFFICE. (a) Except as
18 otherwise provided by this chapter, the office and inspector
19 general operate independently of any other agency.

20 (b) The inspector general, a deputy inspector general, and
21 the office staff are not employees of any other agency.

22 Sec. 422.053. ADMINISTRATIVE ATTACHMENT. A person
23 designated by the inspector general to serve as the deputy
24 inspector general for an agency, together with office staff
25 assigned to the deputy inspector general, are administratively
26 attached to the assigned agency. The assigned agency shall provide
27 to office personnel administrative support services.

1 Sec. 422.054. SERVICE LEVEL AGREEMENT. (a) The office and
2 each state agency to which this chapter applies shall enter into a
3 service level agreement that establishes the performance standards
4 and deliverables with regard to administrative support provided to
5 the office by the agency.

6 (b) The service level agreement must be reviewed at least
7 annually to ensure that services and deliverables are provided in
8 accordance with the agreement.

9 (c) The commission shall provide to the deputy inspector
10 general designated for the commission and that person's staff, for
11 the state fiscal biennium beginning September 1, 2009, the same
12 level of administrative support the commission provided to the
13 office established under former Section 531.102 for the state
14 fiscal biennium beginning September 1, 2007. This subsection
15 expires January 1, 2012.

16 [Sections 422.055-422.100 reserved for expansion]

17 SUBCHAPTER C. INSPECTOR GENERAL AND PERSONNEL

18 Sec. 422.101. APPOINTMENT. (a) The governor, with the
19 advice and consent of the senate, shall appoint an inspector
20 general to serve as director of the office.

21 (b) The appointment shall be made without regard to race,
22 color, disability, sex, religion, age, or national origin.

23 (c) In making the appointment, the governor shall consider
24 the person's knowledge of laws, experience in the enforcement of
25 law, honesty, integrity, education, training, and executive
26 ability.

27 Sec. 422.102. TERM; VACANCY. (a) The inspector general

1 serves a two-year term that expires on February 1 of each
2 odd-numbered year.

3 (b) The governor shall fill a vacancy in the office of
4 inspector general for the unexpired term.

5 Sec. 422.103. ELIGIBILITY. (a) A person is not eligible
6 for appointment as inspector general or designation as a deputy
7 inspector general if the person or the person's spouse:

8 (1) is an officer or paid consultant of a business
9 entity or other organization that holds a license, certificate of
10 authority, or other authorization from an agency to which this
11 chapter applies or that receives funds from an agency to which this
12 chapter applies;

13 (2) owns or controls, directly or indirectly, more
14 than a 10 percent interest in a business entity or other
15 organization receiving funds from an agency to which this chapter
16 applies; or

17 (3) uses or receives a substantial amount of tangible
18 goods or funds from an agency to which this chapter applies, other
19 than compensation or reimbursement authorized by law.

20 (b) A person is not eligible to serve as inspector general
21 or deputy inspector general if the person or the person's spouse is
22 required to register as a lobbyist under Chapter 305 because of the
23 person's or spouse's activities for compensation related to the
24 operation of an agency to which this chapter applies.

25 Sec. 422.104. CONFLICT OF INTEREST. (a) The inspector
26 general may not serve as an ex officio member on the governing body
27 of a governmental entity.

1 (b) The inspector general may not have a financial interest
2 in the transactions of the office or an agency to which this chapter
3 applies.

4 (c) The inspector general and the deputy inspector general
5 designated for the commission may not have a financial interest in
6 the transactions of a provider.

7 Sec. 422.105. REMOVAL. The governor, with the advice and
8 consent of the senate, may remove the inspector general from office
9 as provided by Section 9, Article XV, Texas Constitution.

10 Sec. 422.106. DEPUTY INSPECTORS GENERAL. (a) The
11 inspector general, in consultation with the office of the governor
12 and as necessary to implement this chapter, shall designate persons
13 to serve as deputy inspectors general for each agency to which this
14 chapter applies.

15 (b) A deputy inspector general shall report to and perform
16 duties as directed by the inspector general.

17 (c) Each agency to which this chapter applies shall provide
18 to the agency's designated deputy inspector general facilities and
19 support services, including suitable office space, furniture,
20 computer and communications equipment, administrative support, and
21 salary and benefits as provided by the General Appropriations Act.

22 Sec. 422.107. PEACE OFFICERS. (a) The office may employ
23 and commission peace officers to assist the inspector general in
24 carrying out the duties of the office relating to detection,
25 investigation, and prevention of fraud, waste, and abuse in
26 programs at an agency to which this chapter applies or in programs
27 receiving state or federal funds that are implemented,

1 administered, or overseen by or for the agency.

2 (b) A commissioned peace officer or otherwise designated
3 law enforcement officer employed by the office is not entitled to
4 supplemental benefits from the law enforcement and custodial
5 officer supplemental retirement fund unless the officer transfers
6 from a position, without a break in service, that qualifies for
7 supplemental retirement benefits from the fund.

8 Sec. 422.108. EXPERTS. Subject to the availability of
9 funds, the inspector general and deputy inspectors general may
10 contract with certified public accountants, qualified management
11 consultants, or other professional experts as necessary to
12 independently perform the functions of the office.

13 Sec. 422.109. EMPLOYEES; TRAINING. (a) The inspector
14 general may employ personnel as necessary to implement the duties
15 of the office.

16 (b) The inspector general shall train office personnel to
17 pursue, efficiently and as necessary, fraud, waste, and abuse cases
18 in programs at an agency to which this chapter applies or other
19 state or federally funded programs implemented, administered, or
20 overseen by or for the agency.

21 Sec. 422.110. ASSISTANCE BY AGENCY EMPLOYEES. (a) The
22 inspector general may require employees of an agency to which this
23 chapter applies to provide assistance to the office in connection
24 with the office's duties relating to the investigation of fraud,
25 waste, and abuse in the provision of services for programs at an
26 agency to which this chapter applies or state or federally funded
27 programs implemented, administered, or overseen by or for the

1 agency.

2 (b) The inspector general or the deputy inspector general
3 for the commission may also require employees of any health and
4 human services agency to provide assistance under Subsection (a).

5 Sec. 422.111. MERIT SYSTEM. (a) The office may establish a
6 merit system for its employees.

7 (b) The merit system may be maintained in conjunction with
8 other state agencies that are required by federal law to operate
9 under a merit system.

10 [Sections 422.112-422.150 reserved for expansion]

11 SUBCHAPTER D. GENERAL POWERS AND DUTIES

12 Sec. 422.151. GENERAL RESPONSIBILITIES. (a) The office is
13 responsible for the investigation of fraud, waste, and abuse, as
14 defined in applicable state and federal law, in the provision or
15 funding of services by or for an agency to which this chapter
16 applies or under a program implemented, administered, or overseen
17 by or for the agency.

18 (b) The office shall set clear objectives, priorities, and
19 performance standards for the office that emphasize:

20 (1) coordinating investigative efforts to
21 aggressively recover money;

22 (2) allocating resources to cases that have the
23 strongest supportive evidence and the greatest potential for
24 recovery of money; and

25 (3) maximizing opportunities for referral of cases to
26 the office of the attorney general in accordance with this chapter
27 and other applicable law.

1 Sec. 422.152. GENERAL POWERS. The office has all the powers
2 necessary or appropriate to carry out its responsibilities and
3 functions under this chapter and other law. In addition to
4 performing functions and duties otherwise provided by law, the
5 office may:

6 (1) provide for coordination between the office and
7 special investigative units formed by managed care organizations
8 under Section 531.113 or entities with which managed care
9 organizations contract under that section;

10 (2) audit the use and effectiveness of state or
11 federal funds, including contract and grant funds, administered by
12 a person or an agency to which this chapter applies;

13 (3) conduct reviews, investigations, and inspections
14 relating to the funds described by Subdivision (2);

15 (4) recommend policies promoting economical and
16 efficient administration of the funds described by Subdivision (2)
17 and the prevention and detection of fraud, waste, and abuse in
18 administration of those funds; and

19 (5) conduct internal affairs investigations in
20 instances of fraud, waste, and abuse and in instances of misconduct
21 by employees, contractors, subcontractors, and vendors.

22 Sec. 422.153. HEALTH AND HUMAN SERVICES RESPONSIBILITIES.
23 The office is responsible for:

24 (1) the investigation of fraud, waste, and abuse in
25 the provision or funding of health or human services by this state;

26 (2) the enforcement of state law relating to the
27 provision of those services to protect the public; and

1 (3) the prevention and detection of crime relating to
2 the provision of those services.

3 Sec. 422.154. RULEMAKING BY INSPECTOR GENERAL. (a)
4 Notwithstanding Section 531.0055(e) and any other law, the
5 inspector general shall adopt the rules necessary to administer the
6 functions of the office, including rules to address the imposition
7 of sanctions and penalties for violations and due process
8 requirements for imposing sanctions and penalties.

9 (b) A rule, standard, or form adopted by an agency to which
10 this chapter applies that is necessary to accomplish the duties of
11 the office is considered to also be a rule, standard, or form of the
12 office and remains in effect as a rule, standard, or form of the
13 office until changed by the inspector general.

14 (c) The rules must include standards for the office that
15 emphasize:

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

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

21 (3) maximizing opportunities for referral of cases to
22 the office of the attorney general.

23 Sec. 422.155. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
24 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
25 related to the operation of the inspector general does not:

26 (1) take precedence over the authority of the state
27 auditor to conduct audits under Chapter 321 or other law; or

1 (2) prohibit the state auditor from conducting an
2 audit, investigation, or other review or from having full and
3 complete access to all records and other information, including
4 witnesses and electronic data, that the state auditor considers
5 necessary for the audit, investigation, or other review.

6 Sec. 422.156. EXECUTIVE ORDERS. (a) The governor may issue
7 executive orders directing state agencies to implement
8 recommendations issued by the office for corrective or remedial
9 actions promoting the economical and efficient administration of
10 money and the detection of fraud.

11 (b) The governor may submit to the lieutenant governor, the
12 speaker of the house of representatives, the state auditor, and the
13 comptroller a report of the executive orders issued under this
14 chapter and the compliance by state agencies with those orders.

15 Sec. 422.157. DEFENSE BY ATTORNEY GENERAL. The attorney
16 general shall defend any action brought against the inspector
17 general, a deputy inspector general, or an employee or officer of
18 the office as a result of that person's official act or omission,
19 whether or not the person has terminated service with the office at
20 the time the action is instituted.

21 Sec. 422.158. INTERAGENCY COORDINATION. (a) The office
22 and the attorney general shall enter into a memorandum of
23 understanding to develop and implement joint written procedures for
24 processing cases of suspected fraud, waste, or abuse, as those
25 terms are defined by state or federal law, or other violations of
26 state or federal law under programs at an agency to which this
27 chapter applies or in programs receiving state or federal funds

1 that are implemented, administered, or overseen by the agency.

2 (b) The memorandum of understanding shall require:

3 (1) the office and the attorney general to set
4 priorities and guidelines for referring cases to appropriate state
5 agencies for investigation, prosecution, or other disposition to
6 enhance deterrence of fraud, waste, abuse, or other violations of
7 state or federal law, including a violation of Chapter 102,
8 Occupations Code, in the programs and to maximize the imposition of
9 penalties, the recovery of money, and the successful prosecution of
10 cases;

11 (2) the office to refer each case of suspected fraud,
12 waste, or abuse to the attorney general not later than the 20th
13 business day after the date the office determines that the
14 existence of fraud, waste, or abuse is reasonably indicated;

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

23 (4) the office to keep detailed records for cases
24 processed by the office or the attorney general, including
25 information on the total number of cases processed and, for each
26 case:

27 (A) the agency and division to which the case is

1 referred for investigation;

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

3 (C) the nature of the suspected fraud, waste, or
4 abuse;

5 (5) the office to notify each appropriate division of
6 the office of the attorney general of each case referred by the
7 office of inspector general;

8 (6) the attorney general to ensure that information
9 relating to each case investigated by the attorney general is
10 available to each division of the attorney general's office with
11 responsibility for investigating suspected fraud, waste, or abuse;

12 (7) the attorney general to notify the office of each
13 case the attorney general declines to prosecute or prosecutes
14 unsuccessfully;

15 (8) representatives of the office and the attorney
16 general to meet not less than quarterly to share case information
17 and determine the appropriate agency and division to investigate
18 each case; and

19 (9) the office and the attorney general to submit
20 information requested by the comptroller about each resolved case
21 for the comptroller's use in improving fraud detection.

22 (c) An exchange of information under this section between
23 the attorney general and the office or any other state agency does
24 not affect whether the information is subject to disclosure under
25 Chapter 552.

26 (d) With respect to Medicaid fraud, in addition to the
27 provisions required by Subsection (b), the memorandum of

1 understanding required by this section must also ensure that no
2 barriers to direct fraud referrals to the attorney general's
3 Medicaid fraud control unit or unreasonable impediments to
4 communication between Medicaid agency employees and the Medicaid
5 fraud control unit are imposed and must include procedures to
6 facilitate the referral of cases directly to the attorney general.

7 Sec. 422.159. INFORMATION AND TECHNOLOGY. The office may
8 obtain information or technology necessary to enable the office to
9 meet its responsibilities under this chapter or other law.

10 Sec. 422.160. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

11 (a) The office shall develop and implement policies that provide
12 the public a reasonable opportunity to appear before the office and
13 to speak on any issue under the office's jurisdiction.

14 (b) The office shall prepare information of public interest
15 describing the functions of the office and the office's procedures
16 by which complaints are filed with and resolved by the office. The
17 office shall make the information available to the public and
18 appropriate state agencies.

19 (c) The office shall keep an information file about each
20 complaint filed with the office relating to a state agency or entity
21 receiving state or federal money and falling under the
22 investigatory jurisdiction of the office.

23 [Sections 422.161-422.200 reserved for expansion]

24 SUBCHAPTER E. REVIEWS, INVESTIGATIONS, AND AUDITS

25 Sec. 422.201. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

26 (a) The inspector general may evaluate any activity or operation of
27 an agency to which this chapter applies, a provider, if applicable,

or a person in this state that is related to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a program at an agency to which this chapter applies or in a state or federally funded program implemented, administered, or overseen by or for the agency. A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(b) The office shall conduct reviews and inspections to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs described by Subsection (a).

(c) A state agency or the governing body or governing officer of a state agency may not impair or prohibit the inspector general from initiating or completing a review.

(d) With respect to an agency to which this chapter applies, the inspector general may audit and review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or agency receiving the funds in connection with an agency or state or federally funded program implemented, administered, or overseen by or for the agency.

Sec. 422.202. CLAIMS CRITERIA FOR INVESTIGATIONS. The office by rule shall set specific claims criteria that, when met, require the office to begin an investigation.

Sec. 422.203. INITIATION OF REVIEW. The inspector general

1 may initiate a review:

2 (1) on the inspector general's own initiative;

3 (2) at the request of an agency to which this chapter
4 applies or the governing body or governing officer of the agency; or

5 (3) based on a complaint from any source concerning a
6 matter described by Section 422.201.

7 Sec. 422.204. INTEGRITY REVIEW FOR MEDICAID PROGRAM. (a)

8 The deputy inspector general designated for the commission shall
9 conduct an integrity review to determine whether there is
10 sufficient basis to warrant a full investigation on receipt of any
11 complaint of fraud, waste, or abuse of funds in the state Medicaid
12 program from any source.

13 (b) An integrity review under this section must begin not
14 later than the 30th day after the date the office receives a
15 complaint or has reason to believe that Medicaid fraud, waste, or
16 abuse has occurred. An integrity review shall be completed not
17 later than the 90th day after the date the review began.

18 (c) If the findings of an integrity review give the office
19 reason to believe that an incident of fraud involving possible
20 criminal conduct has occurred in the state Medicaid program, the
21 office must take the following action, as appropriate, not later
22 than the 30th day after the completion of the integrity review:

23 (1) if a provider is suspected of fraud involving
24 criminal conduct, the office must refer the case to the state's
25 Medicaid fraud control unit, provided that the criminal referral
26 does not preclude the office from continuing its investigation of
27 the provider or preclude the imposition of appropriate

1 administrative or civil sanctions; or

2 (2) if there is reason to believe that a recipient of
3 funds has defrauded the Medicaid program, the office may conduct a
4 full investigation of the suspected fraud.

5 Sec. 422.205. ACCESS TO INFORMATION. (a) To further a
6 review conducted by the office, the inspector general or a deputy
7 inspector general is entitled to access all books, records,
8 accounts, documents, reports, vouchers, databases, systems, or
9 other information, including confidential information, electronic
10 data, and internal records relevant to the functions of the office
11 that are maintained by or for a person, state agency, or provider,
12 if applicable, in connection with an agency to which this chapter
13 applies or a state or federally funded program implemented,
14 administered, or overseen by or for the agency.

15 (b) The inspector general or deputy inspector general may
16 not access data or other information the release of which is
17 restricted under federal law unless the appropriate federal agency
18 approves the release to the office or its agent.

19 Sec. 422.206. COOPERATION REQUIRED. To further a review
20 conducted by the inspector general's office, the inspector general
21 or deputy inspector general may require medical or other
22 professional assistance from an agency to which this chapter
23 applies or an auditor, accountant, or other employee of the agency.

24 Sec. 422.207. REFERRAL TO STATE MEDICAID FRAUD CONTROL
25 UNIT. (a) At the time the office learns or has reason to suspect
26 that a health or human services provider's records related to
27 participation in the state Medicaid program are being withheld,

1 concealed, destroyed, fabricated, or in any way falsified, the
2 office shall immediately refer the case to the state's Medicaid
3 fraud control unit.

4 (b) A criminal referral under Subsection (a) does not
5 preclude the office from continuing its investigation of a health
6 or human services provider or the imposition of appropriate
7 administrative or civil sanctions.

8 Sec. 422.208. HOLD ON CLAIM REIMBURSEMENT PAYMENT;
9 EXCLUSION FROM PROGRAMS. (a) In addition to other instances
10 authorized under state or federal law, the office shall impose
11 without prior notice a hold on payment of claims for reimbursement
12 submitted by a health or human services provider to compel
13 production of records related to participation in the state
14 Medicaid program or on request of the state's Medicaid fraud
15 control unit, as applicable.

16 (b) The office must notify the health or human services
17 provider of the hold on payment not later than the fifth working day
18 after the date the payment hold is imposed.

19 (c) The office shall, in consultation with the state's
20 Medicaid fraud control unit, establish guidelines under which holds
21 on payment or exclusions from a health and human services program:

22 (1) may permissively be imposed on a health or human
23 services provider; or

24 (2) shall automatically be imposed on a provider.

25 (d) A health or human services provider subject to a hold on
26 payment or excluded from a program under this section is entitled to
27 a hearing on the hold or exclusion. A hearing under this subsection

is a contested case hearing under Chapter 2001. The State Office of Administrative Hearings shall conduct the hearing. After the hearing, the office, subject to judicial review, shall make a final determination. The commission, a health and human services agency, and the attorney general are entitled to intervene as parties in the contested case.

Sec. 422.209. REQUEST FOR EXPEDITED HEARING. (a) On timely written request by a health or human services provider subject to a hold on payment under Section 422.208, other than a hold requested by the state's Medicaid fraud control unit, the office shall file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold.

(b) The health or human services provider must request an expedited hearing not later than the 10th day after the date the provider receives notice from the office under Section 422.208(b).

Sec. 422.210. INFORMAL RESOLUTION. (a) The inspector general shall adopt rules that allow a health or human services provider subject to a hold on payment under Section 422.208, other than a hold requested by the state's Medicaid fraud control unit, to seek an informal resolution of the issues identified by the office in the notice provided under that section.

(b) A health or human services provider that seeks an informal resolution must do so not later than the 10th day after the date the provider receives notice from the office under Section 422.208(b).

(c) A health or human services provider's decision to seek an informal resolution does not extend the time by which the

1 provider must request an expedited administrative hearing under
2 Section 422.209.

3 (d) A hearing initiated under Section 422.208 shall be
4 stayed at the office's request until the informal resolution
5 process is completed.

6 Sec. 422.211. EMPLOYEE REPORTS. The inspector general may
7 require employees at an agency to which this chapter applies to
8 report to the office information regarding fraud, waste, misuse or
9 abuse of funds or resources, corruption, or illegal acts.

10 Sec. 422.212. SUBPOENAS. (a) The inspector general may
11 issue a subpoena to compel the attendance of a relevant witness at a
12 hearing or deposition under this subchapter or to compel the
13 production, for inspection or copying, of relevant materials in
14 connection with a review, hearing, or deposition conducted under
15 this subchapter.

16 (b) A subpoena may be served personally or by certified
17 mail.

18 (c) If a person fails to comply with a subpoena, the
19 inspector general, acting through the attorney general, may file
20 suit to enforce the subpoena in a district court in this state.

21 (d) On finding that good cause exists for issuing the
22 subpoena, the court shall order the person to comply with the
23 subpoena. The court may hold in contempt a person who fails to obey
24 the court order.

25 (e) The reimbursement of the expenses of a witness whose
26 attendance is compelled under this section is governed by Section
27 2001.103.

1 Sec. 422.213. INTERNAL AUDITOR. (a) In this section,
2 "internal auditor" means a person appointed under Section 2102.006.

3 (b) The internal auditor for an agency to which this chapter
4 applies shall provide the inspector general with a copy of the
5 agency's internal audit plan to:

6 (1) assist in the coordination of efforts between the
7 inspector general and the internal auditor; and

8 (2) limit duplication of effort regarding reviews by
9 the inspector general and internal auditor.

10 (c) The internal auditor shall provide to the inspector
11 general all final audit reports concerning audits of any:

12 (1) part or division of the agency;

13 (2) contract, procurement, or grant; and

14 (3) program conducted by the agency.

15 Sec. 422.214. COOPERATION WITH LAW ENFORCEMENT OFFICIALS
16 AND OTHER ENTITIES. (a) The inspector general may provide
17 information and evidence relating to criminal acts to the state
18 auditor's office and appropriate law enforcement officials.

19 (b) The inspector general may refer matters for further
20 civil, criminal, and administrative action to appropriate
21 administrative and prosecutorial agencies, including the attorney
22 general.

23 (c) The inspector general may enter into a memorandum of
24 understanding with a law enforcement or prosecutorial agency,
25 including the attorney general, to assist in conducting a review
26 under this subchapter.

27 Sec. 422.215. COOPERATION AND COORDINATION WITH STATE

1 AUDITOR. (a) The state auditor may, on request of the inspector
2 general, provide appropriate information or other assistance to the
3 inspector general or office, as determined by the state auditor.

4 (b) The inspector general may meet with the state auditor's
5 office to coordinate a review conducted under this subchapter,
6 share information, or schedule work plans.

7 (c) The state auditor is entitled to access all information
8 maintained by the inspector general, including vouchers,
9 electronic data, internal records, and information obtained under
10 Section 422.205 or subject to Section 422.254.

11 (d) Any information obtained or provided by the state
12 auditor under this section is confidential and not subject to
13 disclosure under Chapter 552.

14 Sec. 422.216. PREVENTION. (a) The inspector general may
15 recommend to an agency to which this chapter applies or the
16 presiding officer of the agency policies on:

17 (1) promoting economical and efficient administration
18 of state or federal funds administered by an individual or entity
19 that received the funds from a state agency; and

20 (2) preventing and detecting fraud, waste, and abuse
21 in the administration of those funds.

22 (b) The inspector general may provide training or other
23 education regarding the prevention of fraud, waste, and abuse to
24 employees of a state agency. The training or education provided
25 must be approved by the presiding officer of the agency.

26 Sec. 422.217. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR
27 OVERCHARGES. (a) If the office determines that the report results

1 in the recovery of an administrative or civil penalty imposed by
2 law, the office may grant an award to an individual who reports:

3 (1) activity that constitutes fraud, waste, or abuse
4 of money related to any agency programs or in programs receiving
5 state or federal funds that are implemented, administered, or
6 overseen by the agency; or

7 (2) overcharges in a program described by Subdivision
8 (1).

9 (b) The office may not grant an award to an individual in
10 connection with a report if the office or attorney general had
11 independent knowledge of the activity reported by the individual.

12 (c) The office shall determine the amount of an award
13 granted under this section. The amount may not exceed five percent
14 of the amount of the administrative or civil penalty imposed by law
15 that resulted from the individual's report.

16 (d) In determining the amount of an award granted under this
17 section, the office:

18 (1) shall consider the importance of the report in
19 ensuring the fiscal integrity of the program; and

20 (2) may consider whether the individual participated
21 in the reported fraud, waste, abuse, or overcharge.

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

25 Sec. 422.218. RULEMAKING BY PRESIDING OFFICER OF AGENCY.
26 The presiding officer of an agency may adopt rules governing the
27 agency's response to reports and referrals from the inspector

general on issues identified by the inspector general related to the agency or a contractor of the agency.

Sec. 422.219. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING OFFICER. If a review by the inspector general involves allegations that a presiding officer of an agency has engaged in misconduct, the inspector general shall report to the governor during the review until the report is completed or the review is closed without a finding.

[Sections 422.220-422.250 reserved for expansion]

SUBCHAPTER F. REPORTS

Sec. 422.251. PERIODIC REPORTING REQUIRED. The inspector general shall timely inform the governor, the attorney general, the state auditor, and the presiding officer of the relevant agency of the initiation of a review of an agency program and the ongoing status of the review.

Sec. 422.252. REPORTING OFFICE FINDINGS. The inspector general shall report the findings of the office in connection with a review conducted under Subchapter E to:

- (1) the presiding officer of the agency;
- (2) the governor;
- (3) the lieutenant governor;
- (4) the speaker of the house of representatives;
- (5) the comptroller;
- (6) the state auditor; and
- (7) the attorney general.

Sec. 422.253. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the presiding officer

1 of the agency associated with the review, the governor's general
2 counsel, and the state auditor a particularly serious or flagrant
3 problem relating to the administration of a program, operation of
4 the agency, or interference with an inspector general review.

5 Sec. 422.254. INFORMATION CONFIDENTIAL. (a) Except as
6 provided by this chapter, all information and material compiled by
7 the inspector general during a review under this subchapter is:

8 (1) confidential and not subject to disclosure under
9 Chapter 552; and

10 (2) not subject to disclosure, discovery, subpoena, or
11 other means of legal compulsion for release to anyone other than the
12 state auditor's office, the agency that is the subject of a review,
13 or the office or its agents involved in the review related to that
14 information or material.

15 (b) As the inspector general determines appropriate,
16 information relating to a review may be disclosed to:

17 (1) a law enforcement agency;

18 (2) the attorney general;

19 (3) the state auditor; or

20 (4) the agency that is the subject of a review.

21 (c) A person that receives information under Subsection (b)
22 may not disclose the information except to the extent that
23 disclosure is consistent with the authorized purpose for which the
24 person received the information.

25 Sec. 422.255. DRAFT OF FINAL REVIEW REPORT; AGENCY
26 RESPONSE. (a) Except in cases in which the office has determined
27 that potential fraud, waste, or abuse exists, the office shall

1 provide a draft of the final review report of any investigation,
2 audit, or review of the operations of an agency to the presiding
3 officer of the agency before publishing the office's final review
4 report.

5 (b) The agency director may provide a response to the
6 office's draft report in the manner prescribed by the office not
7 later than the 10th day after the date the draft report is received
8 by the agency. The inspector general by rule shall specify the
9 format of and requirements for the agency response.

10 (c) Notwithstanding Subsection (a), the office may not
11 provide a draft report to the presiding officer of the agency if in
12 the inspector general's opinion providing the draft report could
13 negatively affect any anticipated civil or criminal proceedings.

14 (d) The office may include any portion of the agency's
15 response in the office's final report.

16 Sec. 422.256. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)
17 The inspector general shall prepare a final report for each review
18 conducted under this chapter. The final report must include:

19 (1) a summary of the activities performed by the
20 inspector general in conducting the review;

21 (2) a determination of whether wrongdoing was found;
22 and

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

24 (b) The inspector general's final review reports are
25 subject to disclosure under Chapter 552.

26 (c) All working papers and other documents related to
27 compiling the final review reports remain confidential and are not

1 subject to disclosure under Chapter 552.

2 (d) Not later than the 60th day after the date the office
3 issues a final report that identifies deficiencies or
4 inefficiencies in, or recommends corrective measures in the
5 operations of, an agency, the agency shall file a response that
6 includes:

7 (1) an implementation plan and timeline for
8 implementing corrective measures; or

9 (2) the agency's rationale for declining to implement
10 corrective measures for the identified deficiencies or
11 inefficiencies or the office's recommended corrective measures, as
12 applicable.

13 Sec. 422.257. COSTS. (a) The inspector general shall
14 maintain information regarding the cost of reviews.

15 (b) The inspector general may cooperate with appropriate
16 administrative and prosecutorial agencies, including the attorney
17 general, in recovering costs incurred under this chapter from
18 nongovernmental entities, including contractors or individuals
19 involved in:

20 (1) violations of applicable state or federal rules or
21 statutes;

22 (2) abusive or wilful misconduct; or

23 (3) violations of a provider contract or program
24 policy.

25 Sec. 422.258. SEMIANNUAL REPORT. The office and the
26 attorney general shall jointly prepare and submit a semiannual
27 report to the governor, the lieutenant governor, the speaker of the

house of representatives, the state auditor, the comptroller, and each member of the legislature concerning the activities of the office and the attorney general in detecting and preventing fraud, waste, and abuse under any agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by a state agency that is reviewed by the office under this chapter. The report may be consolidated with any other report relating to the same subject matter the office or the attorney general is required to submit under other law.

[Sections 422.259-422.300 reserved for expansion]

SUBCHAPTER G. PENALTIES

Sec. 422.301. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

(a) The office may:

(1) act for an agency to which this chapter applies, including a health and human services agency, in the assessment by the office of administrative or civil penalties the agency is authorized to assess under applicable law; and

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

(b) If the office imposes an administrative or civil penalty under Subsection (a) for an agency:

(1) the agency may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this chapter, and applicable laws

1 governing the imposition of a penalty by the agency.

2 SECTION 2. Section 493.019, Government Code, is amended to
3 read as follows:

4 Sec. 493.019. ENFORCEMENT OFFICERS. In accordance with
5 Section 422.107, the ~~[The]~~ inspector general appointed under
6 Chapter 422 may appoint employees who are certified by the
7 Commission on Law Enforcement Officer Standards and Education as
8 qualified to be peace officers to serve under the direction of the
9 inspector general and assist the inspector general in performing
10 the enforcement duties of the department.

11 SECTION 3. Section 493.026, Government Code, as added by
12 Chapter 263 (S.B. 103), Acts of the 80th Legislature, Regular
13 Session, 2007, is renumbered as Section 493.028, Government Code,
14 and amended to read as follows:

15 Sec. 493.028 ~~[493.026]~~. INSPECTOR GENERAL REPORT ON
16 CRIMINAL OFFENSES. (a) In this section, "special prosecution
17 unit" means the special prosecution unit established under
18 Subchapter E, Chapter 41.

19 (b) The inspector general appointed under Chapter 422 ~~[of~~
20 ~~the department]~~ shall on a quarterly basis prepare and deliver to
21 the board of directors of the special prosecution unit a report
22 concerning any alleged criminal offense concerning the department
23 and described by Article 104.003(a), Code of Criminal Procedure,
24 that occurred during the preceding calendar quarter.

25 SECTION 4. Section 501.174, Government Code, is amended to
26 read as follows:

27 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department

shall adopt a policy providing for:

(1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;

(2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;

(3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:

(A) contact the ombudsperson and the office of the inspector general; and

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general established under Chapter 422, at the time the office is notified of the sexual assault, to arrange for a medical examination of the alleged victim to be conducted in accordance with Article 56.06, Code of Criminal Procedure, or, if an appropriate employee of the office of the inspector general is not available at the time the office is notified of the sexual assault, a qualified employee at the correctional facility to conduct a medical examination of the alleged victim in accordance with Article 56.06, Code of Criminal Procedure;

(5) a grievance proceeding under Section 501.008 based on an alleged sexual assault to be exempt from any deadline applicable to grievances initiated under that section; and

(6) each correctional facility to collect statistics on all alleged sexual assaults against inmates confined in the

1 facility and to report the statistics to the ombudsperson.

2 SECTION 5. Section 501.176(b), Government Code, is amended
3 to read as follows:

4 (b) The report must include public information regarding:

5 (1) each investigation and monitoring activity
6 relating to sexual assault completed during the fiscal year by the
7 ombudsperson and the inspector general appointed under Chapter 422;
8 and

9 (2) statistics collected by the ombudsperson
10 regarding allegations of sexual assault.

11 SECTION 6. Section 501.177, Government Code, is amended to
12 read as follows:

13 Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
14 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
15 related to the operation of the ombudsperson or related to the
16 office of the inspector general established under Chapter 422 does
17 not prohibit the state auditor from conducting an audit,
18 investigation, or other review or from having full and complete
19 access to all records and other information, including witnesses
20 and electronic data, that the state auditor considers necessary for
21 the audit, investigation, or other review.

22 SECTION 7. Section 501.178, Government Code, is amended to
23 read as follows:

24 Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY
25 AUDITS NOT IMPAIRED. This subchapter or other law related to the
26 operation of the ombudsperson or of the office of the inspector
27 general established under Chapter 422 does not take precedence over

1 the authority of the state auditor to conduct an audit under Chapter
2 321 or other law.

3 SECTION 8. Section 531.001, Government Code, is amended by
4 adding Subdivision (4-a) to read as follows:

5 (4-a) "Office of inspector general" means the office
6 of inspector general established under Chapter 422.

7 SECTION 9. Section 531.008(c), Government Code, is amended
8 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 10. Section 531.1031(a)(2), Government Code, is
14 amended to read as follows:

15 (2) "Participating agency" means:

16 (A) the Medicaid fraud enforcement divisions of
17 the office of the attorney general; ~~and~~

18 (B) each board or agency with authority to
19 license, register, regulate, or certify a health care professional
20 or managed care organization that may participate in the state
21 Medicaid program; and

22 (C) the office of inspector general.

23 SECTION 11. Section 531.104(a), Government Code, is amended
24 to read as follows:

25 (a) The office of inspector general ~~[commission]~~ and the
26 attorney general shall execute a memorandum of understanding under
27 which the office ~~[commission]~~ shall provide investigative support

1 as required to the attorney general in connection with cases under
2 Subchapter B, Chapter 36, Human Resources Code. Under the
3 memorandum of understanding, the office [~~commission~~] shall assist
4 in performing preliminary investigations and ongoing
5 investigations for actions prosecuted by the attorney general under
6 Subchapter C, Chapter 36, Human Resources Code.

7 SECTION 12. Section 531.105, Government Code, is amended to
8 read as follows:

9 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office of
10 inspector general [~~commission~~] shall develop and implement a
11 program to provide annual training to contractors who process
12 Medicaid claims and appropriate staff of the health and human
13 services agencies [~~Texas Department of Health and the Texas~~
14 ~~Department of Human Services~~] in identifying potential cases of
15 fraud, waste, or abuse under the state Medicaid program. The
16 training provided to the contractors and staff must include clear
17 criteria that specify:

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

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

21 (b) The commission and other health and human services
22 agencies [~~Texas Department of Health and the Texas Department of~~
23 ~~Human Services~~], in cooperation with the office of inspector
24 general [~~commission~~], shall periodically set a goal of the number
25 of potential cases of fraud, waste, or abuse under the state
26 Medicaid program that each agency will attempt to identify and
27 refer to the office [~~commission~~]. The office [~~commission~~] shall

1 include information on the agencies' goals and the success of each
2 agency in meeting the agency's goal in the report required by
3 Section 531.103(c).

4 SECTION 13. Sections 531.106(a), (b), (d), (e), (f), and
5 (g), Government Code, are amended to read as follows:

6 (a) The office of inspector general ~~[commission]~~ shall use
7 learning or neural network technology to identify and deter fraud,
8 waste, and abuse in the Medicaid program throughout this state.

9 (b) The office of inspector general ~~[commission]~~ shall
10 contract with a private or public entity to develop and implement
11 the technology. The office ~~[commission]~~ may require the entity it
12 contracts with to install and operate the technology at locations
13 specified by the office ~~[commission, including commission~~
14 ~~offices]~~.

15 (d) The office of inspector general ~~[commission]~~ shall
16 require each health and human services agency that performs any
17 aspect of the state Medicaid program to participate in the
18 implementation and use of the technology.

19 (e) The office of inspector general ~~[commission]~~ shall
20 maintain all information necessary to apply the technology to
21 claims data covering a period of at least two years.

22 (f) Cases ~~[The commission shall refer cases]~~ identified by
23 the technology shall be referred to the ~~[commission's]~~ office of
24 inspector general ~~[investigations and enforcement]~~ or the office of
25 the attorney general, as appropriate.

26 (g) Each month, the learning or neural network technology
27 implemented under this section must match bureau of vital

1 statistics death records with Medicaid claims filed by a provider.
2 If the commission or the office of inspector general determines
3 that a provider has filed a claim for services provided to a person
4 after the person's date of death, as determined by the bureau of
5 vital statistics death records, [~~the commission shall refer~~] the
6 case shall be referred for investigation to the office of inspector
7 general or the office of the attorney general, as appropriate [~~to~~
8 ~~the commission's office of investigations and enforcement~~].

9 SECTION 14. Section 531.1061, Government Code, is amended
10 to read as follows:

11 Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM. (a)
12 The office of inspector general [~~commission~~] shall use an automated
13 fraud investigation tracking system [~~through the commission's~~
14 ~~office of investigations and enforcement~~] to monitor the progress
15 of an investigation of suspected fraud, waste, abuse, or
16 insufficient quality of care under the state Medicaid program.

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

21 (1) receive electronically transferred records
22 relating to the identified case from the learning or neural network
23 technology;

24 (2) record the details and monitor the status of an
25 investigation of the identified case, including maintaining a
26 record of the beginning and completion dates for each phase of the
27 case investigation;

1 (3) generate documents and reports related to the
2 status of the case investigation; and

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

5 (c) The office of inspector general may ~~[commission shall]~~
6 require each health and human services agency that performs any
7 aspect of the state Medicaid program to participate in the
8 implementation and use of the automated fraud investigation
9 tracking system.

10 SECTION 15. Section 531.1062(a), Government Code, is
11 amended to read as follows:

12 (a) The office of inspector general ~~[commission]~~ shall use
13 an automated recovery monitoring system to monitor the collections
14 process for a settled case of fraud, waste, abuse, or insufficient
15 quality of care under the state Medicaid program.

16 SECTION 16. Sections 531.107(a), (b), and (f), Government
17 Code, are amended to read as follows:

18 (a) The Medicaid and Public Assistance Fraud Oversight Task
19 Force advises and assists the ~~[commission and the commission's]~~
20 office of inspector general ~~[investigations and enforcement]~~ in
21 improving the efficiency of fraud investigations and collections.

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

23 (1) attorney general's office, appointed by the
24 attorney general;

25 (2) comptroller's office, appointed by the
26 comptroller;

27 (3) Department of Public Safety, appointed by the

1 public safety director;

2 (4) state auditor's office, appointed by the state
3 auditor;

4 (5) office of inspector general [~~commission~~],
5 appointed by the inspector general [~~commissioner of health and~~
6 ~~human services~~];

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

10 (7) Texas Department of Insurance, appointed by the
11 commissioner of insurance; and

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

14 (f) At least once each fiscal quarter, the [~~commission's~~]
15 office of inspector general [~~investigations and enforcement~~] shall
16 provide to the task force:

17 (1) information detailing:

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

20 (B) the time spent investigating each case;

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

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

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

27 (2) any additional information the task force

1 requires.

2 SECTION 17. Sections 531.108 and 531.109, Government Code,
3 are amended to read as follows:

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

7 ~~[(1) fraud prevention; and~~

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

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

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

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

20 ~~[(c)]~~ The office of inspector general ~~[commission]~~ shall
21 develop a cost-effective method of identifying applicants for
22 public assistance in counties bordering other states and in
23 metropolitan areas selected by the office ~~[commission]~~ who are
24 already receiving benefits in other states. If economically
25 feasible, the office ~~[commission]~~ may develop a computerized
26 matching system.

27 (b) ~~[(d)]~~ The office of inspector general ~~[commission]~~

1 shall:

2 (1) verify automobile information that is used as
3 criteria for eligibility; and

4 (2) establish a computerized matching system with the
5 Texas Department of Criminal Justice to prevent an incarcerated
6 individual from illegally receiving public assistance benefits
7 administered by the commission.

8 (c) ~~[(e)]~~ The office of inspector general ~~[commission]~~
9 shall submit to the governor and Legislative Budget Board a
10 semiannual report on the results of computerized matching of office
11 and commission information with information from neighboring
12 states, if any, and information from the Texas Department of
13 Criminal Justice. The report may be consolidated with any other
14 report relating to the same subject matter the office ~~[commission]~~
15 is required to submit under other law.

16 Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The
17 office of inspector general ~~[commission]~~ shall annually select and
18 review a random, statistically valid sample of all claims for
19 reimbursement under the state Medicaid program, including the
20 vendor drug program, for potential cases of fraud, waste, or abuse.

21 (b) In conducting the annual review of claims under
22 Subsection (a), the office of inspector general ~~[commission]~~ may
23 directly contact a recipient by telephone or in person, or both, to
24 verify that the services for which a claim for reimbursement was
25 submitted by a provider were actually provided to the recipient.

26 (c) Based on the results of the annual review of claims, the
27 office of inspector general and the commission shall determine the

1 types of claims at which office and commission resources for fraud,
2 waste, and abuse detection should be primarily directed.

3 SECTION 18. Sections 531.110(a), (c), (d), (e), and (f),
4 Government Code, are amended to read as follows:

5 (a) The office of inspector general [~~commission~~] shall
6 conduct electronic data matches for a recipient of assistance under
7 the state Medicaid program at least quarterly to verify the
8 identity, income, employment status, and other factors that affect
9 the eligibility of the recipient.

10 (c) The commission and other health and human services
11 agencies [~~Texas Department of Human Services~~] shall cooperate with
12 the office of inspector general [~~commission~~] by providing data or
13 any other assistance necessary to conduct the electronic data
14 matches required by this section.

15 (d) The office of inspector general [~~commission~~] may
16 contract with a public or private entity to conduct the electronic
17 data matches required by this section.

18 (e) The office of inspector general [~~commission~~], or a
19 health and human services agency designated by the office
20 [~~commission~~], by rule shall establish procedures to verify the
21 electronic data matches conducted by the office [~~commission~~] under
22 this section. Not later than the 20th day after the date the
23 electronic data match is verified, the commission and other health
24 and human services agencies [~~Texas Department of Human Services~~]
25 shall remove from eligibility a recipient who is determined to be
26 ineligible for assistance under the state Medicaid program.

27 (f) The office of inspector general [~~commission~~] shall

1 report biennially to the legislature the results of the electronic
2 data matching program. The report must include a summary of the
3 number of applicants who were removed from eligibility for
4 assistance under the state Medicaid program as a result of an
5 electronic data match conducted under this section.

6 SECTION 19. Section 531.111, Government Code, is amended to
7 read as follows:

8 Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The office of
9 inspector general [~~commission~~] may contract with a contractor who
10 specializes in developing technology capable of identifying
11 patterns of fraud exhibited by Medicaid recipients to:

12 (1) develop and implement the fraud detection
13 technology; and

14 (2) determine if a pattern of fraud by Medicaid
15 recipients is present in the recipients' eligibility files
16 maintained by the commission or other health and human services
17 agencies [~~Texas Department of Human Services~~].

18 SECTION 20. Section 531.1112, Government Code, is amended
19 to read as follows:

20 Sec. 531.1112. STUDY CONCERNING INCREASED USE OF TECHNOLOGY
21 TO STRENGTHEN FRAUD DETECTION AND DETERRENCE; IMPLEMENTATION. (a)
22 The commission and the [~~commission's~~] office of inspector general
23 shall jointly study the feasibility of increasing the use of
24 technology to strengthen the detection and deterrence of fraud in
25 the state Medicaid program. The study must include the
26 determination of the feasibility of using technology to verify a
27 person's citizenship and eligibility for coverage.

1 (b) The commission shall implement any methods the
2 commission and the [~~commission's~~] office of inspector general
3 determine are effective at strengthening fraud detection and
4 deterrence.

5 SECTION 21. Section 531.113, Government Code, is amended to
6 read as follows:

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

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

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

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

24 (1) a description of the managed care organization's
25 procedures for detecting and investigating possible acts of fraud, waste,
26 waste, or abuse;

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

1 procedures for the mandatory reporting of possible acts of fraud,
2 waste, or abuse to the [~~commission's~~] office of inspector general;

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

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

8 (5) a description or chart outlining the
9 organizational arrangement of the managed care organization's
10 personnel responsible for investigating and reporting possible
11 acts of fraud, waste, or abuse;

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

17 (7) provisions for maintaining the confidentiality of
18 any patient information relevant to an investigation of fraud,
19 waste, or abuse.

20 (c) If a managed care organization contracts for the
21 investigation of fraudulent claims and other types of program waste
22 or abuse by recipients and service providers under Subsection
23 (a)(2), the managed care organization shall file with the
24 [~~commission's~~] office of inspector general:

25 (1) a copy of the written contract;

26 (2) the names, addresses, telephone numbers, and fax
27 numbers of the principals of the entity with which the managed care

1 organization has contracted; and

2 (3) a description of the qualifications of the
3 principals of the entity with which the managed care organization
4 has contracted.

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

8 (e) The inspector general ~~[commissioner]~~ shall adopt rules
9 as necessary to accomplish the purposes of this section.

10 SECTION 22. Sections 531.114(b) and (g), Government Code,
11 are amended to read as follows:

12 (b) If after an investigation the office of inspector
13 general ~~[commission]~~ determines that a person violated Subsection
14 (a), the office ~~[commission]~~ shall:

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

19 (2) refer the matter to the appropriate prosecuting
20 attorney for prosecution.

21 (g) The inspector general ~~[commission]~~ shall adopt rules as
22 necessary to implement this section.

23 SECTION 23. Section 533.001, Government Code, is amended by
24 adding Subdivision (3-a) to read as follows:

25 (3-a) "Inspector general" means the inspector general
26 appointed under Chapter 422.

27 SECTION 24. Section 533.005(a), Government Code, is amended

1 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 ~~[commission's]~~ office of inspector
16 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 25. Sections 533.012(a), (b), (c), and (e),

Government Code, are amended to read as follows:

(a) Each managed care organization contracting with the commission under this chapter shall submit to the office of inspector general ~~[commission]~~:

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

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

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

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

(b) The information submitted under this section must be submitted in the form required by the office of inspector general ~~[commission]~~ and be updated as required by the office ~~[commission]~~.

(c) The office ~~[commission's office]~~ of inspector general ~~[investigations and enforcement]~~ shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program.

(e) Information submitted to the office of inspector general ~~[commission]~~ under Subsection (a)(1) is confidential and not subject to disclosure under Chapter 552~~[, Government Code]~~.

SECTION 26. Section 811.001(9), Government Code, is amended to read as follows:

(9) "Law enforcement officer" means a member of the retirement system who:

(A) has been commissioned as a law enforcement officer by the Department of Public Safety, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Department, or the office of inspector general at the Texas Youth Commission or its successor in function; and

(B) is recognized as a commissioned law enforcement officer by the Commission on Law Enforcement Officer Standards and Education.

SECTION 27. Section 814.104(b), Government Code, is amended to read as follows:

(b) A member who is at least 55 years old and who has at least 10 years of service credit as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Department, or the office of inspector general at the Texas Youth Commission or its successor in function, or as a custodial officer, is eligible to retire and receive a service retirement annuity.

SECTION 28. Section 815.505, Government Code, is amended to read as follows:

Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND CUSTODIAL OFFICERS. Not later than the 12th day of the month following the month in which a person begins or ceases employment as

1 a law enforcement officer or custodial officer, the Public Safety
2 Commission, the Texas Alcoholic Beverage Commission, the Parks and
3 Wildlife Commission, the office of inspector general at the Texas
4 Youth Commission or its successor in function, the Board of Pardons
5 and Paroles, or the Texas Board of Criminal Justice, as applicable,
6 shall certify to the retirement system, in the manner prescribed by
7 the system, the name of the employee and such other information as
8 the system determines is necessary for the crediting of service and
9 financing of benefits under this subtitle.

10 SECTION 29. Section 2054.376(b), Government Code, is
11 amended to read as follows:

12 (b) This subchapter does not apply to:

13 (1) the Department of Public Safety's use for criminal
14 justice or homeland security purposes of a federal database or
15 network;

16 (2) a Texas equivalent of a database or network
17 described by Subdivision (1) that is managed by the Department of
18 Public Safety;

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

21 (4) the state treasury cash and treasury management
22 system; ~~or~~

23 (5) a database or network managed by the comptroller
24 to:

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

27 (B) manage or administer fiscal, financial,

revenue, and expenditure activities of the state under Chapter 403 and Chapter 404; or

(6) the use for criminal justice and statutorily mandated confidentiality purposes of a federal or state database or network by the office of inspector general established under Chapter 422.

SECTION 30. Section 21.014(b), Human Resources Code, is amended to read as follows:

(b) The [~~person employed by the department as~~] inspector general appointed under Chapter 422, Government Code, shall make reports to and consult with the agency director [~~chairman of the board~~] regarding:

(1) the selection of internal audit topics;

(2) the establishment of internal audit priorities;

and

(3) the findings of each regular or special internal audit initiative.

SECTION 31. Section 32.003, Human Resources Code, is amended by adding Subdivision (5) to read as follows:

(5) "Office of inspector general" means the office of inspector general established under Chapter 422, Government Code.

SECTION 32. Section 32.0291, Human Resources Code, is amended to read as follows:

Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

(a) Notwithstanding any other law, the office of inspector general or department may:

(1) perform a prepayment review of a claim for

reimbursement under the medical assistance program to determine whether the claim involves fraud, waste, or abuse; and

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

(b) Notwithstanding any other law, the office of inspector general ~~[department]~~ may impose a postpayment hold on payment of future claims submitted by a provider if the office ~~[department]~~ has reliable evidence that the provider has committed fraud, waste, abuse, or wilful misrepresentation regarding a claim for reimbursement under the medical assistance program. The office ~~[department]~~ must notify the provider of the postpayment hold not later than the fifth working day after the date the hold is imposed.

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

(d) The inspector general ~~[department]~~ shall adopt rules

1 that allow a provider subject to a postpayment hold under
2 Subsection (b) to seek an informal resolution of the issues
3 identified by the office of inspector general [~~department~~] in the
4 notice provided under that subsection. A provider must seek an
5 informal resolution under this subsection not later than the
6 deadline prescribed by Subsection (c). A provider's decision to
7 seek an informal resolution under this subsection does not extend
8 the time by which the provider must request an expedited
9 administrative hearing under Subsection (c). However, a hearing
10 initiated under Subsection (c) shall be stayed at the office's
11 [~~department's~~] request until the informal resolution process is
12 completed.

13 SECTION 33. Section 32.032, Human Resources Code, is
14 amended to read as follows:

15 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD, WASTE, AND
16 ABUSE. The inspector general [~~department~~] shall adopt reasonable
17 rules for minimizing the opportunity for fraud, waste, and abuse,
18 for establishing and maintaining methods for detecting and
19 identifying situations in which a question of fraud, waste, or
20 abuse in the program may exist, and for referring cases where fraud,
21 waste, or abuse appears to exist to the appropriate law enforcement
22 agencies for prosecution.

23 SECTION 34. Sections 32.0321(a), (b), (c), and (d), Human
24 Resources Code, are amended to read as follows:

25 (a) The office of inspector general [~~department~~] by rule may
26 require each provider of medical assistance in a provider type that
27 has demonstrated significant potential for fraud or abuse to

1 file with the office [~~department~~] a surety bond in a reasonable
2 amount. The office [~~department~~] by rule shall require a provider of
3 medical assistance to file with the office [~~department~~] a surety
4 bond in a reasonable amount if the office [~~department~~] identifies a
5 pattern of suspected fraud or abuse involving criminal conduct
6 relating to the provider's services under the medical assistance
7 program that indicates the need for protection against potential
8 future acts of fraud or abuse.

9 (b) The bond under Subsection (a) must be payable to the
10 office of inspector general [~~department~~] to compensate the office
11 [~~department~~] for damages resulting from or penalties or fines
12 imposed in connection with an act of fraud or abuse committed by the
13 provider under the medical assistance program.

14 (c) Subject to Subsection (d) or (e), the office of
15 inspector general [~~department~~] by rule may require each provider of
16 medical assistance that establishes a resident's trust fund account
17 to post a surety bond to secure the account. The bond must be
18 payable to the office [~~department~~] to compensate residents of the
19 bonded provider for trust funds that are lost, stolen, or otherwise
20 unaccounted for if the provider does not repay any deficiency in a
21 resident's trust fund account to the person legally entitled to
22 receive the funds.

23 (d) The office of inspector general [~~department~~] may not
24 require the amount of a surety bond posted for a single facility
25 provider under Subsection (c) to exceed the average of the total
26 average monthly balance of all the provider's resident trust fund
27 accounts for the 12-month period preceding the bond issuance or

1 renewal date.

2 SECTION 35. Section 32.0322, Human Resources Code, is
3 amended to read as follows:

4 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION.

5 (a) The office of inspector general and the department may obtain
6 from any law enforcement or criminal justice agency the criminal
7 history record information that relates to a provider under the
8 medical assistance program or a person applying to enroll as a
9 provider under the medical assistance program.

10 (b) The office of inspector general [~~department~~] by rule
11 shall establish criteria for revoking a provider's enrollment or
12 denying a person's application to enroll as a provider under the
13 medical assistance program based on the results of a criminal
14 history check.

15 SECTION 36. Section 32.070(d), Human Resources Code, is
16 amended to read as follows:

17 (d) This section does not apply to a computerized audit
18 conducted using the Medicaid Fraud Detection Audit System or an
19 audit or investigation of fraud, waste, and abuse conducted by the
20 Medicaid fraud control unit of the office of the attorney general,
21 the office of the state auditor, the office of [~~the~~] inspector
22 general, or the Office of Inspector General in the United States
23 Department of Health and Human Services.

24 SECTION 37. Section 33.015(e), Human Resources Code, is
25 amended to read as follows:

26 (e) The department shall require a person exempted under
27 this section from making a personal appearance at department

1 offices to provide verification of the person's entitlement to the
2 exemption on initial eligibility certification and on each
3 subsequent periodic eligibility recertification. If the person
4 does not provide verification and the department considers the
5 verification necessary to protect the integrity of the food stamp
6 program, the department shall initiate a fraud referral to the
7 ~~[department's]~~ office of inspector general established under
8 Chapter 422, Government Code.

9 SECTION 38. Section 61.001(7), Human Resources Code, is
10 amended to read as follows:

11 (7) "Office of inspector general" means the office of
12 inspector general established under Chapter 422, Government Code
13 ~~[Section 61.0451]~~.

14 SECTION 39. Sections 61.0451(a), (d), (f), and (g), Human
15 Resources Code, are amended to read as follows:

16 (a) The office of inspector general shall investigate ~~[is~~
17 ~~established at the commission for the purpose of investigating]~~:

18 (1) crimes committed by commission employees,
19 including parole officers employed by or under a contract with the
20 commission; and

21 (2) crimes and delinquent conduct committed at a
22 facility operated by the commission or at a residential facility
23 operated by another entity under a contract with the commission.

24 (d) The office of inspector general may employ and
25 commission inspectors ~~[general]~~ as peace officers in accordance
26 with Section 422.107, Government Code, for the purpose of carrying
27 out the duties described by this section. An inspector ~~[general]~~

1 shall have all of the powers and duties given to peace officers
2 under Article 2.13, Code of Criminal Procedure.

3 (f) If the inspector general is not a commissioned peace
4 officer, the inspector general [~~The executive commissioner~~] shall
5 select a commissioned peace officer as chief inspector [~~general~~].
6 The chief inspector [~~general~~] is subject to the requirements of
7 this section and may only be discharged for cause.

8 (g) The [~~chief~~] inspector general shall on a quarterly basis
9 prepare and deliver a report concerning the operations of the
10 office of inspector general to:

- 11 (1) the executive commissioner;
- 12 (2) the advisory board;
- 13 (3) the governor;
- 14 (4) the lieutenant governor;
- 15 (5) the speaker of the house of representatives;
- 16 (6) the standing committees of the senate and house of
17 representatives with primary jurisdiction over correctional
18 facilities;
- 19 (7) the state auditor; and
- 20 (8) the comptroller.

21 SECTION 40. Sections 61.098(d) and (e), Human Resources
22 Code, are amended to read as follows:

23 (d) Notwithstanding Subsection (c), the office of inspector
24 general shall immediately provide the special prosecution unit with
25 a report concerning an alleged criminal offense or delinquent
26 conduct concerning the commission and described by Article
27 104.003(a), Code of Criminal Procedure, if the [~~chief~~] inspector

1 general reasonably believes the offense or conduct is particularly
2 serious and egregious.

3 (e) The [~~chief~~] inspector general of the office of inspector
4 general, at the direction of the board of directors of the special
5 prosecution unit, shall notify the foreman of the appropriate grand
6 jury, in the manner provided by Article 20.09, Code of Criminal
7 Procedure, if:

8 (1) the [~~chief~~] inspector general receives credible
9 evidence of illegal or improper conduct by commission officers,
10 employees, or contractors that the inspector general reasonably
11 believes jeopardizes the health, safety, and welfare of children in
12 the custody of the commission;

13 (2) the [~~chief~~] inspector general reasonably believes
14 the conduct:

15 (A) could constitute an offense under Article
16 104.003(a), Code of Criminal Procedure; and

17 (B) involves the alleged physical or sexual abuse
18 of a child in the custody of a commission facility or an
19 investigation related to the alleged abuse; and

20 (3) the [~~chief~~] inspector general has reason to
21 believe that information concerning the conduct has not previously
22 been presented to the appropriate grand jury.

23 SECTION 41. Section 64.055(b), Human Resources Code, is
24 amended to read as follows:

25 (b) The independent ombudsman shall immediately report to
26 the governor, the lieutenant governor, the speaker of the house of
27 representatives, the state auditor, and the office of the inspector

1 general established under Chapter 422, Government Code, [of the
2 ~~commission]~~ any particularly serious or flagrant:

3 (1) case of abuse or injury of a child committed to the
4 commission;

5 (2) problem concerning the administration of a
6 commission program or operation;

7 (3) problem concerning the delivery of services in a
8 facility operated by or under contract with the commission; or

9 (4) interference by the commission with an
10 investigation conducted by the office.

11 SECTION 42. Section 64.056(b), Human Resources Code, is
12 amended to read as follows:

13 (b) The records of the independent ombudsman are
14 confidential, except that the independent ombudsman shall:

15 (1) share with the office of inspector general
16 established under Chapter 422, Government Code, [of the commission]
17 a communication with a child that may involve the abuse or neglect
18 of the child; and

19 (2) disclose its nonprivileged records if required by
20 a court order on a showing of good cause.

21 SECTION 43. Section 20.038, Business & Commerce Code, is
22 amended to read as follows:

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

25 (1) a state or local governmental entity, including a
26 law enforcement agency or court or private collection agency, if
27 the entity, agency, or court is acting under a court order, warrant,

1 subpoena, or administrative subpoena;

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

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

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

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

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

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

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

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

27 (10) a person for the purpose of providing a consumer

1 with a copy of the consumer's report on the consumer's request;

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

4 (A) to prevent or investigate fraud; or

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

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

15 (13) a consumer reporting agency that:

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

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

22 SECTION 44. Article 2.12, Code of Criminal Procedure, is
23 amended to read as follows:

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

26 (1) sheriffs, their deputies, and those reserve
27 deputies who hold a permanent peace officer license issued under

1 Chapter 1701, Occupations Code;

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

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

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

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

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

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

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

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

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

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

27 (12) airport security personnel commissioned as peace

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

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

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

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

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

12 (17) investigators commissioned by the Texas Medical
13 Board;

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

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

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

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

24 (22) officers commissioned by the governing body of a
25 metropolitan rapid transit authority under Section 451.108,
26 Transportation Code, or by a regional transportation authority
27 under Section 452.110, Transportation Code;

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

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

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

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

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

11 (28) an investigator commissioned by the commissioner
12 of insurance under Section 701.104, Insurance Code;

13 (29) apprehension specialists ~~[and—inspectors~~
14 ~~general]~~ commissioned by the Texas Youth Commission as officers
15 under Section ~~[Sections 61.0451 and]~~ 61.0931, Human Resources Code;

16 (30) ~~[officers appointed by the inspector general of~~
17 ~~the Texas Department of Criminal Justice under Section 493.019,~~
18 ~~Government Code,~~

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

22 (31) ~~[(32)]~~ commission investigators commissioned by
23 the Texas Private Security Board under Section 1702.061(f),
24 Occupations Code;

25 (32) ~~[(33)]~~ the fire marshal and any officers,
26 inspectors, or investigators commissioned by an emergency services
27 district under Chapter 775, Health and Safety Code;

1 (33) [~~(34)~~] officers commissioned by the State Board
2 of Dental Examiners under Section 254.013, Occupations Code,
3 subject to the limitations imposed by that section; [~~and~~]

4 (34) [~~(35)~~] investigators commissioned by the Texas
5 Juvenile Probation Commission as officers under Section 141.055,
6 Human Resources Code; and

7 (35) officers commissioned by the office of inspector
8 general established under Chapter 422, Government Code.

9 SECTION 45. The following sections of the Government Code
10 are repealed:

- 11 (1) Section 531.102;
12 (2) Section 531.1021; and
13 (3) Section 531.103.

14 SECTION 46. (a) The repeal by this Act of Section 531.102,
15 Government Code, does not affect the validity of a complaint,
16 investigation, or other proceeding initiated under that section
17 before the effective date of this Act. A complaint, investigation,
18 or other proceeding initiated under that section is continued in
19 accordance with the changes in law made by this Act.

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

26 SECTION 47. (a) The person serving as inspector general
27 under Section 531.102(a-1), Government Code, on the effective date

1 of this Act shall serve as the inspector general appointed under
2 Chapter 422, Government Code, as added by this Act, until February
3 1, 2011, and may be reappointed under Chapter 422 if the person has
4 the qualifications required under that chapter.

5 (b) A person serving on the effective date of this Act as
6 inspector general for a state agency subject to Chapter 422,
7 Government Code, as added by this Act, shall serve as the deputy
8 inspector general designated for the agency under Chapter 422,
9 Government Code, as added by this Act, unless and until replaced by
10 the inspector general.

11 (c) Not later than February 1, 2011, the governor shall
12 appoint an inspector general for the office of inspector general
13 established under Chapter 422, Government Code, as added by this
14 Act, to a term expiring February 1, 2013.

15 SECTION 48. A contract or proceeding primarily related to a
16 function transferred to the office of inspector general established
17 under this Act is transferred to the office. The transfer does not
18 affect the status of a proceeding or the validity of a contract.

19 SECTION 49. (a) All personnel and assets currently
20 assigned to the inspector general of a state agency subject to
21 Chapter 422, Government Code, as added by this Act, shall be
22 promptly transferred to the office of inspector general established
23 under Chapter 422 along with any equipment, documents, and records
24 currently assigned to or used by the inspector general of that
25 agency. Inventory of personnel, equipment, documents, records, and
26 assets to be transferred under this section shall be accomplished
27 jointly by the transferring agency and the inspector general

1 serving under Chapter 422. All funds previously appropriated or
2 used, from any source, by the transferring agency in support of the
3 transferred functions, personnel, equipment, documents, records,
4 or assets shall also be contemporaneously transferred to the
5 office.

6 (b) For purposes of this section, "currently assigned"
7 means:

8 (1) all personnel and vacant full-time equivalent
9 positions assigned to or supporting a transferred function at any
10 time during the state fiscal biennium beginning September 1, 2007;
11 and

12 (2) all inventory and equipment assigned to a
13 transferred function or transferring personnel or that was in the
14 possession of transferring personnel on or at any time after
15 October 31, 2008.

16 (c) All state and federal funding, including funding for
17 overhead costs, support costs, and lease or colocation lease costs,
18 for the functions to be transferred to the office of inspector
19 general established under Chapter 422, Government Code, as added by
20 this Act, shall be reallocated to that office.

21 (d) For purposes of federal single state agency funding
22 requirements, any federal funds for an agency subject to Chapter
23 422, Government Code, as added by this Act, that may not be
24 appropriated directly to the office of inspector general shall be
25 transferred from the single state agency receiving the funds to the
26 office of inspector general established under Chapter 422 if the
27 funds are intended for a function performed by the office.

SECTION 50. On the effective date of this Act:

(1) all functions, activities, employees, rules, forms, money, property, contracts, memorandums of understanding, records, and obligations of a previously established office of inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, become functions, activities, employees, rules, forms, money, property, contracts, memorandums of understanding, records, and obligations of the office of inspector general established under Chapter 422, without a change in status; and

(2) all money appropriated or budgeted for the operations of a previously established office of inspector general at an agency subject to Chapter 422, Government Code, as added by this Act, including money for providing administrative support, is considered appropriated for the use of the office of inspector general established under Chapter 422.

SECTION 51. (a) Each agency subject to Chapter 422, Government Code, as added by this Act, shall take all action necessary to provide for the orderly transfer of the assets and responsibilities of any previously established office of inspector general for that agency to the office of inspector general established under Chapter 422.

(b) A rule or form adopted by a previously established office of inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, is a rule or form of the office of inspector general established under Chapter 422 and remains in effect until changed by the office of inspector general.

1 (c) A reference in law or administrative rule to a
2 previously established office of inspector general of an agency
3 subject to Chapter 422, Government Code, as added by this Act, means
4 the office of inspector general established under Chapter 422.

5 SECTION 52. If before implementing any provision of this
6 Act a state agency determines that a waiver or authorization from a
7 federal agency is necessary for implementation of that provision,
8 the agency affected by the provision shall request the waiver or
9 authorization and may delay implementing that provision until the
10 waiver or authorization is granted.

11 SECTION 53. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2009.