

SENATE BILL REPORT

SB 5877

As of March 29, 2011

Title: An act relating to the creation of the office of program integrity.

Brief Description: Creating the office of program integrity.

Sponsors: Senators Carrell and Zarelli.

Brief History:

Committee Activity: Human Services & Corrections: 3/24/11 [DPA-WM].

Ways & Means:

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter, Carrell, Harper and McAuliffe.

Staff: Jennifer Strus (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Michael Bezanson (786-7449)

Background: The Division of Fraud Investigations (DFI) within the Department of Social and Health Services (DSHS) is responsible for investigating allegations of fraud by applicants and recipients of public assistance programs and for investigating allegations of fraud by vendors with whom DSHS has a contract to provide services to DSHS clients. DFI partners with the Economic Services Administration Community Services Division to investigate current eligibility for Temporary Assistance for Needy Families, Disability Lifeline, Basic Food, Medical, and Working Connections Child Care benefits. According to DSHS material, during the 2009 fiscal year, the cost-avoidance associated with the Fraud Early Detection program was \$24.2 million. During the same period the DFI Overpayment Unit completed overpayments totaling \$1.8 million and the Criminal Investigations Program referred 98 cases to state and federal prosecutors.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Amendments): The Office of Program Integrity (OPI) is created within DSHS for the purpose of reducing fraud and abuse in public assistance programs. The Office is to perform the following tasks:

- conduct independent and objective investigations into allegations of fraud and abuse, make appropriate referrals to law enforcement when there is substantial evidence of criminal activity, and recover overpayments whenever possible;
- recommend policies, procedures, and best practices designed to prevent and detect fraud and abuse and mitigate the risk for fraud and abuse;
- inform the Secretary of DSHS (Secretary), the Governor, and the Legislature about vulnerabilities and deficiencies in the detection and prevention of fraud and abuse that was discovered through the investigations conducted; and
- assisting the Fraud Ombudsman in the State Auditor's Office with responsibilities in auditing and overseeing OPI's activities.

OPI is administered by a director chosen by the Secretary. The director must:

- ensure that each citizen complaint, employee complaint, law enforcement complaint, and agency referral is assessed and, when risk of fraud or abuse is present, each complaint is fully investigated and is referred to the prosecutor when there is substantial evidence of wrongdoing;
- develop policies and protocols to allow consistent and real-time review of all cash assistance programs administered by DSHS to assure benefits are being used for their statutorily stated goals; and
- manage fraud investigative tools and resources to effectively balance them between field operations and data analysis.

The Secretary or the Secretary's designee has authority to administer oaths, take testimony, and issue subpoenas, including subpoena duces tecum.

The OPI Director, in carrying out the provisions of this act, is entitled to prompt access to all persons, records, electronic data, reports, audits, reviews, documents, and other materials available to the departments of Revenue, Early Learning, Labor & Industries, Licensing, Employment Security, and any other government entity that can be used to help facilitate fraud or abuse investigations.

The State Auditor is to appoint a fraud ombudsman to oversee and annually audit the work of OPI. The ombudsman is to review the fraud investigative work done by OPI including cases filed with local prosecuting authorities. The ombudsman has authority to investigate citizen complaints alleging fraud or abuse in any public assistance program. The ombudsman has access to OPI frontline staff for purposes of interviews and evaluations. The ombudsman must submit a report summarizing its auditing activities to the appropriate committees of the legislature by November 30, 2012, and biennially thereafter.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Narrows the focus of investigations to those pertaining to fraud and abuse in public assistance programs. Requires that there be substantial evidence of criminal activity before a referral can be made to law enforcement or a prosecutor. Amends the Secretary's current authority to issue subpoena's to include the Secretary's designee.

Appropriation: None.

Fiscal Note: Requested on March 21, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):

PRO: We are supportive of the concept that people who are eligible and meet the requirements of the program eligibility should receive the services and that those who would take advantage of the system should be stopped so that there are more funds available for the people who legitimately need the programs. WFSE members see the fraud and abuse everyday in their jobs, and it drives them crazy. In this time of declining revenues, need the funds that are remaining to be used for the people who deserve it.

CON: DSHS is in the process of creating a fraud and abuse investigative unit that will report directly to the DSHS Secretary. DSHS takes fraud and abuse in public assistance programs very seriously and plans to take active steps to combat it. Because DSHS can and is taking steps to accomplish the tasks laid out in the bill without needing legislation, this legislation is not needed. There are unintended consequences to this legislation particularly where Medicaid fraud investigations are concerned.

Persons Testifying (Human Services & Corrections): PRO: Lonnie Johns-Brown, Welfare Advocates Group; Dennis Eagle, WFSE.

CON: Gary Robinson, Heidi Robbins-Brown, DSHS.