

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 750  
By: Deuell et al.  
Government Organization  
4/13/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the Health and Human Services Commission and many other state agencies have inspectors general. The inspectors general operate independently of each other and have their own distinct missions, staff, and other resources. The consolidation of the inspectors general of these agencies may enable staff to share or combine information resources in order to find frauds connected with other fraudulent actions in different agencies.

In addition to the issues created by each agency maintaining its own inspector general, current law regarding inspectors general does not provide specific guidance to an office to develop and implement operating policies and procedures. While there are several sources for inspectors general to use as standards for these policies and procedures, the lack of guiding language allows each agency to apply varying components of these standards at its discretion, leading to potentially inconsistent inspection results and remedies. The consolidation of the inspectors general may lead to the creation of uniform sanctions, penalties, and collection procedures.

C.S.S.B. 750 creates the office of state inspector general (office), with the responsibility to detect, investigate, and prevent fraud, waste, and abuse in the state implementation or administration of all state or federally funded programs, and to enforce state law in relation to those programs. This bill creates the office from the staff and resources of the inspector general of HHSC and from each state agency for which a state agency inspector is designated by the office on or before October 1, 2007. This bill requires that all federal funding not directly appropriated to the office to be transferred from the single state agency receiving the funding to the office, if the funds are intended for a function performed by the office. This bill additionally creates uniform law for all agencies affected in such areas as the issuance of subpoenas and injunctions allowing the freezing of assets, and uniform scope for all agencies to use these laws.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the state inspector general in SECTION 1 (Sections 422.102 and 422.155, Government Code) of this bill.

Rulemaking authority is expressly granted to the office of state inspector general in SECTION 1 (422.152 and 422.159, Government Code) of this bill.

Rulemaking authority previously granted to the Health and Human Services Commission is transferred to the office of state inspector general in SECTION 11 (Section 531.110, Government Code), SECTION 13 (Section 531.113, Government Code), SECTION 22 (Section 32.032, Human Resources Code), and SECTION 24 (Section 32.0322, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle B, Title 4, Government Code, by adding Chapter 422, as follows:

#### CHAPTER 422. OFFICE OF STATE INSPECTOR GENERAL

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. DEFINITIONS. Defines "covered entity," "fraud," "furnished," "hold on payment," "office," "practitioner," "program exclusion," "provider," and "state inspector general."

Sec. 422.002. APPLICATION OF SUNSET ACT. Provides that the office of state inspector general (office) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides for the abolition of the office and an expiration date of this chapter of September 1, 2019, if the office is not continued in existence as provided by that chapter.

Sec. 422.003. REFERENCE IN OTHER STATUTES. Provides that a reference in law or rule to the Health and Human Services Commission's (HHSC) office of investigations and enforcement (HHSC office) or HHSC's office of inspector general (HHSC inspector general) means the office, notwithstanding any other provision of law.

[Reserves Sections 422.004-422.050 for expansion.]

#### SUBCHAPTER B. ADMINISTRATION AND COMPLAINTS

Sec. 422.051. OFFICE OF STATE INSPECTOR GENERAL. (a) Provides that the Office of state inspector general (office) is an agency of the state.

(b) Provides that the office operates under the direction and supervision of the state inspector general.

(c) Requires the office to have its principal office and headquarters in Austin, Texas

Sec. 422.052. STATE INSPECTOR GENERAL: APPOINTMENT BY GOVERNOR; QUALIFICATIONS. (a) Provides that the state inspector general is appointed by the governor with the advice and consent of the senate.

(b) Requires the appointment to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) Requires the governor to consider certain factors in making the appointment.

Sec. 422.053. ELIGIBILITY. (a) Provides that a person is ineligible for appointment as state inspector general (appointment) if the person or the person's spouse is an employee, officer, or paid consultant of a trade association in a field under the office's jurisdiction.

(b) Provides that a person is ineligible for appointment if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code.

(c) Provides that a person is ineligible for appointment if the person has a financial interest in a corporation, organization, or association receiving state or federal funds under contract with the state or a political subdivision of the state.

Sec. 422.054. TERM. Provides that the state inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 422.055. MERIT SYSTEM. (a) Authorizes the office to establish a merit system for its employees.

(b) Authorizes the maintenance of the merit system in conjunction with other state agencies that are required by state or federal law to operate under a merit system.

Sec. 422.056. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) Requires the office to develop and implement policies that provide the public a reasonable opportunity to appear before the office and to speak on any issue under the office's jurisdiction.

(b) Requires the office to prepare information of public interest describing the office's functions and the office's procedures by which complaints are filed with and resolved by the office. Requires the office to make this information available to the public and appropriate state agencies.

(c) Requires the office to keep an information file about each complaint filed with the office relating to certain entities receiving state or federal funds and that fall within the jurisdiction of the office.

Sec. 422.057. ANNUAL REPORT. (a) Requires the state inspector general to annually prepare a complete and detailed written report describing the office's activities during the fiscal year. Requires the report to separately describe each of those certain activities completed during the fiscal year.

(b) Requires the annual report to meet the applicable reporting requirements provided in the General Appropriations Act.

(c) Requires the state inspector general to deliver a copy of each annual report to certain elected officials.

(d) Requires each agency to which this chapter applies to post the annual report on its agency website.

(e) Requires the state inspector general to issue the annual report not later than the 60th day after the last day of each fiscal year.

[Reserves Sections 422.058-422.100 for expansion.]

#### SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 422.101. GENERAL RESPONSIBILITIES AND POWERS. Provides that the office is responsible for certain actions relating to abuses in the state's implementation or administration of all state or federally funded programs, including health and human services provided under Chapter 531 (Health and Human Services Commission), Government Code, and in the enforcement of state law relating to those programs.

(b) Requires the office to set clear objectives, priorities, and performance standards for the office. Sets forth certain actions that these objectives, priorities, and performance standards should emphasize.

(c) Provides that the office has all the powers necessary or appropriate to carry out its responsibilities and functions under this chapter and other law.

(d) Requires the state inspector general to establish policies and procedures to guide the office's operation and to ensure that the work and practices of the office are in accordance with commonly used and adopted professional standards related to the fields of investigation and auditing in public administration environments.

(e) Requires an investigation, audit, or review conducted by the office to conform to professional standards and best practices for offices of inspectors general.

Sec. 422.102. RULEMAKING AUTHORITY. Authorizes the state inspector general to adopt rules as necessary to carry out the office's duties under this chapter and other law.

Sec. 422.103. INFORMATION AND TECHNOLOGY. Authorizes the office to obtain any information or technology necessary to enable the office to meet its responsibilities under this chapter or other law.

Sec. 422.104. OFFICE STAFF; TRAINING. Requires the office to employ and train office staff to enable the staff to pursue fraud, waste, and abuse cases as necessary.

Sec. 422.105. STATE AGENCY INSPECTORS GENERAL. (a) Authorizes the state inspector general, in consultation with the office of the governor and as necessary to implement this chapter, to designate persons to serve as state agency inspectors general for state agencies that implement or administer state or federally funded programs. Authorizes each agency inspector general to be colocated with an agency.

(b) Requires each agency inspector general to report to and perform duties as directed by the state inspector general.

(c) Requires a state agency to provide certain facilities and support services to each agency inspector general colocated at the agency and the agency inspector general's staff.

(d) Requires the office and each state agency that has a designated state agency inspector general to execute a service level agreement to establish performance standards regarding the facilities and support services provided by the agency (agreement). Requires the agreement to be reviewed at least annually to ensure that the facilities and support services are being provided in accordance with the agreement.

Sec. 422.106. PEACE OFFICERS. (a) Authorizes the office to employ and commission peace officers, in a number not to exceed 10 percent of the total number of employees of the office, for the purpose of assisting the state inspector general in carrying out the duties of the office under this chapter or other law.

(b) Provides that a commissioned peace officer or other designated law enforcement officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund under Title 8 (Public Retirement Systems), Government Code.

Sec. 422.107. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR OVERCHARGES. (a) Authorizes the office to grant an award to an individual who reports activity that constitutes fraud, waste, or abuse of money in any state or federally funded program implemented or administered by a state agency, or who reports overcharges in a program, if the office determines that the report results in the recovery of an administrative or civil penalty imposed by law (penalty).

(b) Prohibits the office from granting an award to an individual in connection with a report if the office or attorney general had independent knowledge of the activity reported by the individual.

(c) Requires the office to determine the amount of an award granted under this section. Prohibits the amount of the award from exceeding five percent of the penalty that resulted from the individual's disclosure.

(d) Requires the office to consider the importance of the report in ensuring the fiscal integrity of the program when determining the amount of the award, and authorizes the office to consider whether the individual participated in the fraud, waste or abuse of funds or the overcharge.

(e) Prohibits a person who brings an action under Subchapter C (Action by Private Persons), Chapter 36, Human Resources Code, from being eligible for an award under this section.

Sec. 422.108. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. Provides that this chapter or other law related to the operation of the state inspector general or a state inspector general does not prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other certain information that the state auditor considers necessary for the audit, investigation, or other review.

Sec. 422.109. **AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED.** Provides that this chapter or other law related to the operation of the state inspector general or a state inspector general does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321 (State Auditor), Government Code.

[Reserves Sections 422.110-422.150 for expansion.]

#### SUBCHAPTER D. INVESTIGATIONS AND ENFORCEMENT ACTIONS

Sec. 422.151. **AGENCY COOPERATION.** Requires each state agency to provide assistance as necessary for the office to perform the office's duties relating to the investigation of fraud, waste, and abuse in the implementation or administration of state or federally funded programs. Entitles the office to access certain information maintained by a state agency or any covered entity relevant to the office's functions.

Sec. 422.152. **CRITERIA FOR INVESTIGATIONS.** Requires the office by rule to set specific criteria that, when met, require the office to begin an investigation.

Sec. 422.153. **INTEGRITY REVIEWS.** (a) Requires the office to conduct an integrity review (review), upon receipt of a complaint of fraud, waste, or abuse from any source, to determine whether there is sufficient basis to warrant a full investigation.

(b) Requires a review to begin not later than the 30th day after the date the office receives the complaint, or when the office has reason to believe that fraud, waste, or abuse has occurred. Requires the review to be completed not later than the 90th day after the date the review began.

(c) Requires the office to refer the case to the appropriate state or local official having jurisdiction to prosecute certain criminal conduct (referral), or authorizes the office to conduct a full investigation if there is reason to believe that a recipient has defrauded a federally funded program, if the findings of a review lead the office to believe that fraud, waste, or abuse, potentially involving criminal conduct, has occurred in the administration or implementation of a state or federally funded program.

(d) Provides that a criminal referral by the office does not preclude the office from continuing its investigation of the covered entity and imposing appropriate administrative or civil penalties.

Sec. 422.154. **WITHHELD, CONCEALED, OR DESTROYED RECORDS ; HOLD ON PAYMENT OF CLAIMS.** (a) Requires the office to immediately refer a case if the office learns or has reason to suspect that an entity covered under the jurisdiction of the office (covered entity) is denying records to the office for certain reasons.

(b) Provides that a criminal referral by the office does not preclude the office from continuing its investigation of the covered entity and imposing appropriate administrative or civil penalties.

(c) Requires the office to impose, without prior notice, a hold on payment of money owed or claimed to be owed, including claims for reimbursement submitted by a covered entity, to compel production of requested records or when requested by a state or local official for the same reason (hold).

(d) Requires the office to notify the covered entity of the hold on payment not later than the fifth working day after the date the hold is imposed.

Sec. 422.155. **ADMINISTRATIVE HEARING ON PAYMENT CLAIM HOLD.** (a) Requires the office to file a request with the State Office of Administrative Hearings (SOAH) for an expedited administrative hearing regarding a hold (expedited hearing) on timely written request by the covered entity subject to a hold, other than a hold requested

under Section 422.154, Government Code, by an appropriate state or local official having jurisdiction to prosecute.

(b) Requires the state inspector general to adopt rules that allow a covered entity subject to a hold, other than a hold requested under that section by the appropriate state or local official having jurisdiction to prosecute, to seek an informal resolution of the issues identified in the notice provided by the office.

(c) Requires a covered entity subject to a hold to seek an expedited hearing or an informal resolution under Subsection (b) not later than the 10th day after the date which the covered entity receives notice of the hold.

(d) Provides that a covered entity's decision to seek informal resolution under Subsection (b) does not extend the time by which the entity must request an expedited administrative hearing. Requires an expedited hearing to be stayed at the office's request until the informal resolution process is completed.

Sec. 422.156. GUIDELINES FOR IMPOSING PAYMENT CLAIM HOLDS OR PROGRAM EXCLUSIONS. Requires the office to establish guidelines under which holds and program exclusions are to be imposed on a covered entity discretionally or automatically.

Sec. 422.157. ASSESSMENT OF ADMINISTRATIVE PENALTIES; INJUNCTIONS; AUDITS AND INVESTIGATIONS. Sets forth certain actions that the office is authorized to take in addition to performing functions and duties otherwise provided by law.

Sec. 422.158. FINAL REPORTS; CONFIDENTIALITY. (a) Requires the office to prepare a final report on each audit or investigation conducted by the office (final report) under this chapter. Requires the final report to include a summary of the office's performed activities in conducting the audit or investigation, a statement regarding whether the audit or investigation resulted in a finding of any wrongdoing, and a description of such findings.

(b) Provides that a final report is subject to required disclosure under Chapter 552 (Public Information), Government Code. Provides that all information and materials compiled under an audit or investigation remain confidential and not subject to disclosure, except as provided by Section 422.162, Government Code.

(c) Requires the state inspector general, unless otherwise prohibited by this chapter or other law, to deliver a copy of each final report to certain elected officials.

Sec. 422.159. AGENCY RESPONSE. (a) Requires the agency that is the subject of a report by the state inspector general or an agency inspector general identifying deficiencies or that recommends specified corrective measures in operations to file with the office a response that includes a plan and timeline to implement corrective measures or the agency's rationale for declining to implement corrective measure for identified deficiencies or recommended corrective measures.

(b) Requires the office by rule to specify the format and requirements of a state agency response.

(c) Requires a state agency to which this chapter applies to adopt rules to respond to reports and recommendations from the state inspector general or an agency inspector general.

Sec. 422.160. FRAUD PREVENTION INFORMATION. (a) Requires the office to compile and disseminate accurate information and statistics relating to fraud prevention and post-fraud referrals received and accepted or rejected from the office's or an agency's case management system.

(b) Requires the office to aggressively publicize successful fraud prosecutions and fraud-prevention programs through all available means, including statewide press releases, and to maintain and promote a toll-free hotline for reporting of suspected fraud in state or federally funded programs implemented by an agency.

Sec. 422.161. ADMINISTRATIVE SUBPOENA. (a) Authorizes the office to issue an administrative subpoena (subpoena) in connection with the office's investigation to compel the attendance of a relevant witness or for the production, inspection, or copying of relevant evidence in this state.

(b) Authorizes the delivery of the subpoena either personally or by certified mail.

(c) Authorizes the office, acting through the attorney general, to file suit to enforce a subpoena in a district court in this state if a person fails to comply with said subpoena.

(d) Requires the court to order the person to comply with the subpoena if the court finds that good cause exists for the issuance of the subpoena. Authorizes the court to punish a person who fails to obey the court order.

(e) Provides that Section 2001.103 (Expenses of a Witness or Deponent), Government Code, provides for the reimbursement of the expenses of a witness whose attendance is compelled under this section.

Sec. 422.162. CONFIDENTIALITY. (a) Provides that information and materials subpoenaed or compiled by the office in connection with an audit or investigation is confidential and not subject to disclosure under Chapter 552, Government Code, and is not subject to certain means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the conduct of an audit or investigation by the office, except to the attorney general, the state auditor's office, and law enforcement agencies.

(b) Authorizes a person who received information under Subsection (a) to disclose the information only in accordance with that subsection and in a manner that is consistent with the purpose for which the person first received the information.

Sec. 422.163. INTERAGENCY COORDINATION. (a) Requires the office and the office of the attorney general (attorney general) to enter into a memorandum of understanding (memorandum) to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, as defined under state or federal law, or other violations of state or federal law under any state or federally funded program administered by a state agency (state or federally funded program).

(b) Sets forth the required content of the memorandum.

(c) Requires the memorandum, with respect to Medicaid fraud, to ensure that barriers to direct fraud referrals to the attorney general's Medicaid fraud control unit (fraud control unit) or unreasonable communication impediments between Medicaid agency employees and the fraud control unit are not imposed and to include procedures to facilitate the referral of cases directly to the attorney general.

Sec. 422.164. EXCHANGE OF INFORMATION. Provides that any exchange of information between the attorney general, the office, and any state agency, does not affect whether that information is subject to disclosure under Chapter 552, Government Code.

Sec. 422.165. SEMIANNUAL REPORT. (a) Requires the office and the attorney general to jointly prepare and submit a semiannual report (report) to certain officials

concerning the activities of the office and the attorney general in detecting and preventing abuses of funds that is reviewed by the office, and certain activities of the office.

(b) Authorizes the consolidation of the report with any other report relating to the same subject matter that those offices are required to submit under law.

Sec. 422.166. ASSESSMENT AND COLLECTION OF CERTAIN FEES AND COSTS. (a) Prohibits the office and the attorney general from assessing or collecting investigation or attorney's fees on behalf of any state agency unless the attorney general or other state agency collects a penalty, restitution, or other reimbursement payment to the state (payment).

(b) Authorizes certain government attorneys or private collection agencies to collect and retain costs associated with a case referred to the attorney or agency in accordance with the procedures adopted under this section and 20 percent of the amount of the payment collected.

Sec. 422.167. ASSISTING INVESTIGATIONS BY ATTORNEY GENERAL. (a) Requires the office and the attorney general to execute a memorandum under which the office is to provide investigative support as required to the attorney general in connection with cases under Subchapter B (Action by Attorney General), Chapter 36, Human Resources Code. Requires the office, under the memorandum, to assist in performing preliminary and ongoing investigations for actions involving the attorney general under Chapter 36 (Medicaid Fraud Prevention), Human Resources Code.

(b) Requires the memorandum to specify the type, scope, and format of the investigative support provided to the attorney general under this section and to ensure that barriers to direct fraud referrals to the attorney general's Medicaid fraud control unit (fraud control unit) or to communication between Medicaid agency employees and the fraud control unit are not imposed.

Sec. 422.168. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) Authorizes the state auditor, on request of the state inspector general or an agency inspector general, to provide appropriate information or other assistance to the state inspector general or office, as determined by the state auditor.

(b) Authorizes a state inspector general or an agency inspector general to meet with the state auditor's office to coordinate a review conducted under this subchapter, to share information, or to schedule work plans.

(c) Entitles the state auditor to access certain information maintained by the state inspector general or an agency inspector general.

(d) Provides that all information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 422.169. PERIODIC REPORTING TO STATE AUDITOR AND GOVERNOR REQUIRED. Requires the state inspector general to timely inform the state auditor and the governor of the initiation of a review of a state agency program by, and the ongoing status of each review by, the state inspector general or an agency inspector general.

Sec. 422.170. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. Requires the state inspector general or an agency inspector general to immediately report a particularly serious or flagrant problem relating to the administration of a program, operation of a state agency program, or interference with a review by the state inspector general or an agency inspector general to the governor's general counsel and the state auditor.

SECTION 2. Amends Section 531.001, Government Code, by adding Subdivision (4-a) to define "office of state inspector general."

SECTION 3. Amends Section 531.008(c), Government Code, to delete existing text requiring the executive commissioner of HHSC (executive commissioner) to establish the office of inspector general for the functions provided by Subchapter C (Medicaid and other Health and Human Services Fraud, Abuses, and Overcharges), Chapter 531, Government Code, and to make conforming changes.

SECTION 4. Amends Section 531.105, Government Code, as follows:

Sec. 531.105. FRAUD DETECTION TRAINING. Requires the office, rather than HHSC, to develop and implement a program to provide annual training to certain persons and agencies, rather than the Texas Department of Health (TDH) and the Texas Department of Human Services (TDHS). Requires the office to include information on the agencies' goals and respective levels of success in reaching those goals in the report required by Section 422.114, Government Code, rather than Section 531.103(e), Government Code. Makes conforming changes.

SECTION 5. Amends Sections 531.106(a), (b), and (d) through (g), Government Code, as follows:

(a) Deletes existing text referring to HHSC and replaces it with the office in reference to the use of learning or neural network technology for the purposes of identifying and deterring Medicaid fraud (technology).

(b) Requires the office to contract with a private or public entity to develop and implement the technology. Authorizes the office to require the entity it contracts to install and operate the technology at locations specified by the office, including Office of the State Inspector General offices. Makes conforming changes.

(d) Makes a conforming change.

(e) Makes a conforming change.

(f) Requires the office, rather than HHSC, to investigate, rather than refer, cases identified by the technology. Requires the office to refer cases to the attorney general for prosecution, as appropriate, rather than the commission's office of investigations and enforcement. Makes a conforming change.

(g) Requires the office, rather than HHSC, to investigate, rather than refer, the case in which the office determines that a provider has filed a claim for services provided to a person after the person's date of death. Makes conforming changes.

SECTION 6. Amends Section 531.1061, Government Code, by requiring the office to use an automated fraud investigation tracking system, rather than requiring HHSC to use said system through HHSC's office of investigation and enforcement.

SECTION 7. Amends Section 531.1062(a), Government Code, to make conforming changes.

SECTION 8. Amends Section 531.107(a), (b), and (f), Government Code, as follows:

(a) Deletes existing text referring to HHSC's office of investigation and enforcement.

(b) Includes a representative of the office, appointed by the state inspector general, on the Medicaid and Public Assistance Fraud Oversight Task Force (task force). Deletes existing text relating to appointments by the commissioner of HHSC, TDHS, and TDH, and adds text relating to the appointments by the commissioner of the Department of Aging and Disability Services (DADS) and the commissioner of the Department of State Health Services.

(f) Deletes existing text requiring the HHSC office to provide certain information to the task force, and replaces the HHSC office with the office.

SECTION 9. Amends Section 531.108, Government Code, as follows:

Sec. 531.108. FRAUD PREVENTION. (a) Deletes existing text repeating provisions relating to fraud prevention on the part of the office. Redesignates existing Subsection (c) as Subsection (a), and makes a conforming change.

(b) Redesignated from existing Subsection (d). Makes a conforming change.

(c) Redesignated from existing Subsection (e). Makes conforming changes.

SECTION 10. Amends Section 531.109, Government Code, to make conforming changes.

SECTION 11. Amends Sections 531.110(a) and (c) through (f), Government Code, as follows:

(a) Makes a conforming change.

(c) Requires HHSC and other health and human service agencies, rather than TDHS, to cooperate with the office by providing data or any other assistance necessary to conduct electronic data matches for a recipient of assistance under the state Medicaid program at least quarterly to confirm certain factors that affect eligibility of the recipient.

(d) Makes a conforming change.

(e) Requires the office, rather than HHSC or a health and human services agency designated by HHSC, by rule, to establish procedures to verify the electronic data matches conducted by the office. Requires HHSC and other health and human services agencies, rather than TDHS, to remove from eligibility a recipient who is determined to be ineligible for assistance under the state Medicaid program.

(f) Makes a conforming change.

SECTION 12. Amends Section 531.111, Government Code, to make conforming changes.

SECTION 13. Amends Section 531.113, Government Code, to add the investigation of waste to the matters for which each managed care organization that provides or arranges for the provision of health care services to an individual under a government-funded program, including Medicaid and the child health plan program, is responsible. Requires the state inspector general, rather than the HHSC office, to adopt rules as necessary to accomplish the purposes of this section. Makes conforming changes.

SECTION 14. Amends Sections 531.114(b) and (g), Government Code, to make conforming changes.

SECTION 15. Amends Section 533.001, Government Code, by adding Subdivision (8) to define "state inspector general."

SECTION 16. Amends Section 533.005(a), Government Code, to make conforming changes.

SECTION 17. Amends Sections 533.012(a), (b), (c), and (e), Government Code, to make conforming changes.

SECTION 18. Amends Section 2054.376(b), Government Code, by exempting the office's use of a federal or state database or network for the purposes of criminal justice and statutorily mandated confidentiality from the provisions of Subchapter L (Statewide Technology Centers), Chapter 2054, Government Code.

SECTION 19. Amends Section 21.014(b), Human Resources Code, to provide that the inspector general, rather than the person employed by HHSC, is required to make reports and to consult with the chairman of the board of human services [sic] regarding certain issues.

SECTION 20. Amends Section 32.003, Human Resources Code, by adding Subdivision (3-a) to define "office of inspector general."

SECTION 21. Amends Section 32.0291, Human Resources Code, to make conforming changes.

SECTION 22. Amends Section 32.032, Human Resources Code, to require the state inspector general, rather than HHSC, to adopt reasonable rules for minimizing the opportunity for fraud and abuse, for establishing and maintaining methods for detecting and identifying situations in which a question of fraud or abuse in the program may exist, and for referring cases where fraud or abuse appears to exist to appropriate agencies for prosecution, and to make a conforming change.

SECTION 23. Amends Sections 32.0321(a) through (d), Human Resources Code, to make conforming changes.

SECTION 24. Amends Section 32.0322, Human Resources Code, as follows:

Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION. (a) Authorizes the office to obtain the criminal history record that relates to a current provider or a person applying to be a provider under the medical assistance program, from any law enforcement or criminal justice agency.

(b) Requires the office, rather than HHSC, by rule, to establish criteria for revoking a person's enrollment as or application to become a provider under the medical assistance program based on the office's criminal history check.

SECTION 25. Amends Section 32.070(d), Human Resources Code, to make a conforming change.

SECTION 26. Amends Section 33.015(e), Human Resources Code, to make a conforming change.

SECTION 27. Amends Section 20.038, Business & Commerce Code, by including a consumer report provided to the office, acting to investigate fraud, waste, or abuse in state agencies under Chapter 422, Government Code or other law, rather than HHSC acting under Section 531.102 (Health and Human Services Commission Responsibility), Government Code, under the list of reports to which a security freeze is not applicable.

SECTION 28. Amends Article 2.12, Code of Criminal Procedure, to include investigators commissioned by the Texas Medical Board, rather than the Texas State Board of Medical Examiners, officers employed by DSHS, rather than TDH, under Section 431.2471 (Texas Department of Health Peace Officers), Health and Safety Code, an investigator commissioned by the commissioner of insurance under Section 701.104 (Department Investigators), Insurance Code, rather than Article 1.10D (Certain Duties of the Department), Insurance Code, commission investigators commissioner by the Texas Private Security Board, rather than the Texas Commission on Private Security, and officers commissioned by the office, under the list of persons who are peace officers.

SECTION 29. Repealers: (1) Section 531.102 (Office of Inspector General), Government Code.

(2) Section 531.1021 (Subpoenas), Government Code

(3) Section 531.103 (Interagency Coordination), Government Code.

(4) Section 531.104 (Assisting Investigations by Attorney General), Government Code.

SECTION 30. (a) Provides that the repeal by this Act of Section 531.102, Government Code, does not affect the validity of a complaint, investigation, or other proceeding initiated under that section before the effective date of this Act. Provides for the continuance of a complaint, investigation, or other proceeding in accordance with the change in law made by this Act.

(b) Provides that the repeal of Section 531.1021 (Subpoena), Government Code, does not affect the validity of a subpoena issued under that section before the effective date of this Act. Makes application of this Act to subpoenas prospective.

SECTION 31. (a) Creates the office under Chapter 422, Government Code, on the effective date of this Act.

(b) Provides for the abolition of the office of the inspector general of HHSC created under Section 531.102 (Office of Inspector General), Government Code, as that section existed before amendment by this Act, on January 1, 2008.

(c) Establishes a deadline of not later than January 1, 2008, for the following actions.

(1) Requires the transfer of all powers, duties, obligations, rights, contracts, records, personal property, unspent appropriations, state and federal funds, including overhead costs, support costs, and lease or colocation costs from the office of the HHSC inspector general to the office.

(2) Requires the transfer of all personnel, vacant full-time equivalent positions, and assets assigned, as of the effective date of this Act, or engaged in the performance of the functions of the office HHSC's office, from HHSC's office to the office.

(3) Requires each state agency for which a state agency general is designated by the inspector general on or before October 1, 2007, to transfer to the office all personnel, vacant full-time equivalent positions, and assets engaged in the performance state agency functions relating to the detection, investigation, and prevention of fraud, waste, and abuse in the implementation or administration of state or federally funded programs.

(4) Requires all state and federal funding, including funding for overhead costs, support costs, and lease or colocation lease costs, for the functions to be transferred to the office, to be reallocated to the office.

(5) Requires any federal funds that are prohibited from being directly appropriated to the office to be transferred from the single state agency receiving the funds to the office if the funds are intended for a function performed by the office.

(d) Requires the state inspector general to renegotiate all future federal funding to the HHSC office, including certain funds, for reallocation to the office.

(e) Requires a state agency, for which an agency inspector general is designated by the inspector general after October 1, 2007, to transfer all personnel, full-time equivalent positions, and assets engaged in certain functions related to the purposes of the office within 90 days after the designation transfer.

SECTION 32. (a) Requires HHSC to take all action necessary to provide for the orderly transfer of the assets and responsibilities of HHSC's office to the office. Requires all possible efforts to be made to promptly conclude the transfer in the event a transfer is not completed by the date required under this Act.

(b) Provides that a rule or form adopted by the HHSC office remains in effect until changed by the state inspector general.

(c) Provides that a reference in law or administrative rule to the HHSC office means the office.

SECTION 33. (a) Provides that this chapter does not prohibit a person described under Subsection (a) from being appointed as state inspector general if the person is qualified.

(b) Requires the governor to appoint a state inspector general as soon as possible after the term of the HHSC inspector general expires, or after the HHSC office becomes vacant, whichever is earlier, to an initial term expiring February 1, 2009.

SECTION 34. Provides that the abolition by this Act of the HHSC office under of Section 531.102, Government Code, does not affect the validity of actions taken by the HHSC office before it is abolished.

SECTION 35. Authorizes a state agency or the state inspector general to delay implementing a provision of this Act until a requested federal waiver or authorization necessary to implement that provision is obtained.

SECTION 36. Effective date: upon passage or September 1, 2007.