

By: Dukes

H.B. No. 2905

A BILL TO BE ENTITLED

AN ACT

relating to the office of inspector general for the Health and Human Services Commission.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. INSPECTOR GENERAL

Sec. 531.701. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011.

(2) "Inspector general" means the inspector general appointed under this subchapter.

(3) "Office" means the Office of Inspector General.

(4) "Provider" has the meaning assigned by Section 531.1011.

(5) "Review" includes an inspection, investigation, audit, or similar activity.

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

Sec. 531.702. REFERENCE IN OTHER LAW. Notwithstanding any other provision of law, a reference in law or rule to the commission's office of inspector general or the commission's office of investigations and enforcement means the Office of Inspector

1 General.

2 Sec. 531.703. OFFICE OF INSPECTOR GENERAL; ADMINISTRATIVE  
3 ATTACHMENT. (a) The office of inspector general is responsible  
4 for:

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

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

9 (3) the prevention and detection of crime relating to  
10 the provision of those services.

11 (b) The office is administratively attached to the  
12 commission. The commission shall provide to the office  
13 administrative support services from the commission and from health  
14 and human services agencies.

15 Sec. 531.704. SERVICE LEVEL AGREEMENT; FUNDS. (a) The  
16 commission and the office shall enter into a service level  
17 agreement that establishes the performance standards and  
18 deliverables with regard to administrative support by the  
19 commission.

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

23 (c) The commission shall request, apply for, and receive for  
24 the office any appropriations or other money from this state or the  
25 federal government.

26 (d) The commission shall provide to the office for the state  
27 fiscal biennium beginning September 1, 2009, the same level of

1 administrative support the commission provided to the office  
2 established under former Section 531.102 for the state fiscal  
3 biennium beginning September 1, 2007. This subsection expires  
4 January 1, 2012.

5 Sec. 531.705. DUTIES OF COMMISSION. (a) The commission  
6 shall:

7 (1) provide administrative assistance to the office;  
8 and

9 (2) coordinate administrative responsibilities with  
10 the office to avoid unnecessary duplication of duties.

11 (b) The commission may not take an action that affects or  
12 relates to the validity, status, or terms of an interagency  
13 agreement or a contract to which the office is a party without the  
14 office's approval.

15 Sec. 531.706. INDEPENDENCE OF OFFICE. (a) Except as  
16 otherwise provided by this chapter, the office and inspector  
17 general operate independently of the commission.

18 (b) The inspector general and the office staff are not  
19 employees of the commission.

20 Sec. 531.707. INSPECTOR GENERAL: APPOINTMENT AND TERM. (a)  
21 The governor shall appoint an inspector general to serve as  
22 director of the office.

23 (b) The inspector general serves a two-year term that  
24 expires on February 1 of each odd-numbered year.

25 Sec. 531.708. 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, a health and human services  
3 agency, or a health or human services provider.

4        Sec. 531.709. RULEMAKING BY INSPECTOR GENERAL. (a)  
5 Notwithstanding Section 531.0055(e) and any other law, the  
6 inspector general shall adopt the rules necessary to administer the  
7 functions of the office, including rules to address the imposition  
8 of sanctions and penalties for violations and due process  
9 requirements for imposing sanctions and penalties.

10       (b) A rule, standard, or form adopted by the executive  
11 commissioner, the commission, or a health and human services agency  
12 that is necessary to accomplish the duties of the office is  
13 considered to also be a rule, standard, or form of the office and  
14 remains in effect as a rule, standard, or form of the office until  
15 changed by the inspector general.

16       (c) The office may submit proposed rules and adopted rules  
17 to the commission for publication. The executive commissioner or  
18 commission may not amend or modify a rule submitted by the office.

19       (d) The rules must include standards for the office that  
20 emphasize:

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

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

26           (3) maximizing opportunities for referral of cases to  
27 the office of the attorney general.

Sec. 531.710. EMPLOYEES; MEDICAL REVIEW OFFICER; TRAINING.

(a) The inspector general may employ personnel as necessary to implement the duties of the office.

(b) The inspector general shall employ a physician as the medical review officer to perform reviews and provide information and consultation as appropriate when the matter at issue involves or requires medical expertise.

(c) The inspector general shall train office personnel to pursue priority Medicaid and other health and human services fraud, waste, and abuse cases efficiently and as necessary.

(d) The inspector general may contract with certified public accountants, management consultants, or other professional experts necessary to enable the inspector general and office personnel to independently perform the functions of the inspector general's office.

(e) The inspector general may require employees of health and human services agencies to provide assistance to the office in connection with the office's duties relating to the investigation of fraud, waste, and abuse in the provision of health and human services.

Sec. 531.711. REVIEW AND AUDIT AUTHORITY. (a) The inspector general may evaluate any activity or operation of a health and human services agency, health or human services provider, or person in this state that is related to the investigation, detection, or prevention of fraud, waste, and abuse or employee misconduct in a state or state-funded health or human services program. A review may include an investigation or other

1 inquiry into a specific act or allegation of, or a specific  
2 financial transaction or practice that may involve, impropriety,  
3 malfeasance, or nonfeasance in the obligation, spending, receipt,  
4 or other use of state money.

5 (b) The executive commissioner, the commission, or a health  
6 and human services agency of this state may not impair or prohibit  
7 the inspector general from initiating or completing a review.

8 (c) The inspector general may audit and review the use and  
9 effectiveness of state funds, including contract and grant funds,  
10 administered by a person or state agency receiving the funds in  
11 connection with a state or state-funded health or human services  
12 program.

13 Sec. 531.712. INITIATION OF REVIEW. The inspector general  
14 may initiate a review:

- 15 (1) on the inspector general's own initiative;  
16 (2) at the request of the commission or executive  
17 commissioner; or  
18 (3) based on a complaint from any source concerning a  
19 matter described by Section 531.711.

20 Sec. 531.713. INTEGRITY REVIEW. (a) The office shall  
21 conduct an integrity review to determine whether there is  
22 sufficient basis to warrant a full investigation on receipt of any  
23 complaint of fraud, waste, or abuse of funds in the state Medicaid  
24 program from any source.

25 (b) An integrity review must begin not later than the 30th  
26 day after the date the office receives a complaint or has reason to  
27 believe that Medicaid fraud, waste, or abuse has occurred. An

integrity review shall be completed not later than the 90th day after the date the review began.

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

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

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

Sec. 531.714. ACCESS TO INFORMATION. (a) To further a review conducted by the office, the inspector general is entitled to full and unrestricted access to all offices, limited-access or restricted areas, employees, books, papers, records, documents, equipment, computers, databases, systems, accounts, reports, vouchers, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office, maintained by a person, health and human services agency, or health or human services provider in connection with a state or state-funded health or human services program.

(b) The inspector general may not access data or other

1 information the release of which is restricted under federal law  
2 unless the appropriate federal agency approves the release to the  
3 office or its agent.

4 Sec. 531.715. COOPERATION REQUIRED. To further a review  
5 conducted by the inspector general's office, the inspector general  
6 may require medical or other professional assistance from the  
7 executive commissioner, the commission, a health and human services  
8 agency, or an auditor, accountant, or other employee of the  
9 commission or agency.

10 Sec. 531.716. REFERRAL TO STATE MEDICAID FRAUD CONTROL  
11 UNIT. (a) At the time the office learns or has reason to suspect  
12 that a health or human services provider's records related to  
13 participation in the state Medicaid program are being withheld,  
14 concealed, destroyed, fabricated, or in any way falsified, the  
15 office shall immediately refer the case to the state's Medicaid  
16 fraud control unit.

17 (b) A criminal referral under Subsection (a) does not  
18 preclude the office from continuing its investigation of a health  
19 or human services provider or the imposition of appropriate  
20 administrative or civil sanctions.

21 Sec. 531.717. HOLD ON CLAIM REIMBURSEMENT PAYMENT;  
22 EXCLUSION FROM PROGRAMS. (a) In addition to other instances  
23 authorized under state or federal law, the office shall impose  
24 without prior notice a hold on payment of claims for reimbursement  
25 submitted by a health or human services provider to compel  
26 production of records related to participation in the state  
27 Medicaid program or on request of the state's Medicaid fraud



1 control unit, as applicable.

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

5 (c) The office shall, in consultation with the state's  
6 Medicaid fraud control unit, establish guidelines under which holds  
7 on payment or exclusions from a state or state-funded program:

8 (1) may permissively be imposed on a health or human  
9 services provider; or

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

11 (d) A health or human services provider subject to a hold on  
12 payment or excluded from a program under this section is entitled to  
13 a hearing on the hold or exclusion. A hearing under this subsection  
14 is a contested case hearing under Chapter 2001. The State Office of  
15 Administrative Hearings shall conduct the hearing. After the  
16 hearing, the office, subject to judicial review, shall make a final  
17 determination. The commission, a health and human services agency,  
18 and the office of the attorney general are entitled to intervene as  
19 parties in the contested case.

20 Sec. 531.718. REQUEST FOR EXPEDITED HEARING. (a) On timely  
21 written request by a health or human services provider subject to a  
22 hold on payment under Section 531.717, other than a hold requested  
23 by the state's Medicaid fraud control unit, the office shall file a  
24 request with the State Office of Administrative Hearings for an  
25 expedited administrative hearing regarding the hold.

26 (b) The health or human services provider must request an  
27 expedited hearing not later than the 10th day after the date the

1 provider receives notice from the office under Section 531.717(b).

2 Sec. 531.719. INFORMAL RESOLUTION. (a) The inspector  
3 general shall adopt rules that allow a health or human services  
4 provider subject to a hold on payment under Section 531.717, other  
5 than a hold requested by the state's Medicaid fraud control unit, to  
6 seek an informal resolution of the issues identified by the office  
7 in the notice provided under that section.

8 (b) A health or human services provider must seek an  
9 informal resolution not later than the 10th day after the date the  
10 provider receives notice from the office under Section 531.717(b).

11 (c) A health or human services provider's decision to seek  
12 an informal resolution does not extend the time by which the  
13 provider must request an expedited administrative hearing under  
14 Section 531.718.

15 (d) A hearing initiated under Section 531.717 shall be  
16 stayed at the office's request until the informal resolution  
17 process is completed.

18 Sec. 531.720. EMPLOYEE REPORTS. The inspector general may  
19 require employees at the commission or a health and human services  
20 agency to report to the office information regarding fraud, waste,  
21 misuse or abuse of funds or resources, corruption, or illegal acts.

22 Sec. 531.721. SUBPOENAS. (a) The inspector general may  
23 issue a subpoena to compel the attendance of a relevant witness or  
24 the production, for inspection or copying, of relevant evidence in  
25 connection with a review conducted under this subchapter.

26 (b) A subpoena may be served personally or by certified  
27 mail.

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

4       (d) On finding that good cause exists for issuing the  
5 subpoena, the court shall order the person to comply with the  
6 subpoena. The court may hold in contempt a person who fails to obey  
7 the court order.

8       (e) The reimbursement of the expenses of a witness whose  
9 attendance is compelled under this section is governed by Section  
10 2001.103.

11       Sec. 531.722. INTERNAL AUDITOR. (a) In this section,  
12 "internal auditor" means a person appointed under Section 2102.006.

13       (b) The internal auditor for a health and human services  
14 agency shall provide the inspector general with a copy of the  
15 agency's internal audit plan to:

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

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

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

22               (1) part or division of the agency;

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

24               (3) program conducted by the agency.

25       Sec. 531.723. COOPERATION WITH LAW ENFORCEMENT OFFICIALS  
26 AND OTHER ENTITIES. (a) The inspector general may provide  
27 information and evidence relating to criminal acts to the state

1 auditor's office and appropriate law enforcement officials.

2 (b) The inspector general may refer matters for further  
3 civil, criminal, and administrative action to appropriate  
4 administrative and prosecutorial agencies, including the attorney  
5 general.

6 (c) The inspector general may enter into a memorandum of  
7 understanding with a law enforcement or prosecutorial agency,  
8 including the office of the attorney general, to assist in  
9 conducting a review under this subchapter.

10 Sec. 531.724. COOPERATION AND COORDINATION WITH STATE  
11 AUDITOR. (a) The state auditor may, on request of the inspector  
12 general, provide appropriate information or other assistance to the  
13 inspector general or office, as determined by the state auditor.

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

17 (c) The state auditor is entitled to access all information  
18 maintained by the inspector general, including vouchers,  
19 electronic data, internal records, and information obtained under  
20 Section 531.714 or subject to Section 531.731.

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

24 Sec. 531.725. PREVENTION. (a) The inspector general may  
25 recommend to the commission and executive commissioner policies on:

26 (1) promoting economical and efficient administration  
27 of state funds administered by an individual or entity that

1 received the funds from a health and human services agency; and

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

4 (b) The inspector general may provide training or other  
5 education regarding the prevention of fraud, waste, or abuse to  
6 employees of a health and human services agency. The training or  
7 education provided must be approved by the presiding officer of the  
8 agency.

9 Sec. 531.726. RULEMAKING BY EXECUTIVE COMMISSIONER. The  
10 executive commissioner may adopt rules governing a health and human  
11 services agency's response to reports and referrals from the  
12 inspector general on issues identified by the inspector general  
13 related to the agency or a contractor of the agency.

14 Sec. 531.727. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING  
15 OFFICER. If a review by the inspector general involves allegations  
16 that a presiding officer of a health and human services agency has  
17 engaged in misconduct, the inspector general shall report to the  
18 governor during the review until the report is completed or the  
19 review is closed without a finding.

20 Sec. 531.728. PERIODIC REPORTING TO STATE AUDITOR AND  
21 EXECUTIVE COMMISSIONER REQUIRED. The inspector general shall  
22 timely inform the state auditor and the executive commissioner of  
23 the initiation of a review of a health and human services agency  
24 program and the ongoing status of each review.

25 Sec. 531.729. REPORTING OFFICE FINDINGS. The inspector  
26 general shall report the findings of any review or investigation  
27 conducted by the office to:

1           (1) the executive commissioner;  
2           (2) the governor;  
3           (3) the lieutenant governor;  
4           (4) the speaker of the house of representatives;  
5           (5) the state auditor's office; and  
6           (6) appropriate law enforcement and prosecutorial  
7 agencies, including the office of the attorney general, if the  
8 findings suggest the probability of criminal conduct.

9           Sec. 531.730. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The  
10 inspector general shall immediately report to the executive  
11 commissioner, the governor's general counsel, and the state auditor  
12 a particularly serious or flagrant problem relating to the  
13 administration of a program, operation of a health and human  
14 services agency, or interference with an inspector general review.

15           Sec. 531.731. INFORMATION CONFIDENTIAL. (a) Except as  
16 provided by this section, Sections 531.103, 531.727 through  
17 531.730, 531.732, and 531.733, all information and material  
18 compiled by the inspector general during a review under this  
19 subchapter is:

20           (1) confidential and not subject to disclosure under  
21 Chapter 552; and

22           (2) not subject to disclosure, discovery, subpoena, or  
23 other means of legal compulsion for release to anyone other than the  
24 state auditor's office, the commission, or the office or its agents  
25 involved in the review related to that information or material.

26           (b) As the inspector general determines appropriate based  
27 on evidence sufficient to support an allegation, information

relating to a review may be disclosed to:

(1) a law enforcement agency;

(2) the attorney general's office;

(3) the state auditor's office; or

(4) the commission.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person first obtained the information.

Sec. 531.732. DRAFT OF FINAL REVIEW REPORT; AGENCY RESPONSE. (a) Except in cases in which the office has determined that potential fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any investigation, audit, or review of the operations of a health and human services agency to the presiding officer of the agency before publishing the office's final review report.

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

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

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

1       Sec. 531.733. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)  
2 The inspector general shall prepare a final report for each review  
3 conducted under this subchapter. The final report must include:

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

6           (2) a determination of whether wrongdoing was found;  
7 and

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

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

11       (c) All working papers and other documents related to  
12 compiling the final review reports remain confidential and are not  
13 subject to disclosure under Chapter 552.

14       (d) Not later than the 60th day after the date the office  
15 issues a final report that identifies deficiencies or  
16 inefficiencies in, or recommends corrective measures in the  
17 operations of, a health and human services agency, the agency shall  
18 file a response that includes:

19           (1) an implementation plan and timeline for  
20 implementing corrective measures; or

21           (2) the agency's rationale for declining to implement  
22 corrective measures for the identified deficiencies or  
23 inefficiencies or the office's recommended corrective measures, as  
24 applicable.

25       Sec. 531.734. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
26 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law  
27 related to the operation of the inspector general does not prohibit



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

6 Sec. 531.735. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
7 AUDITS NOT IMPAIRED. This chapter or other law related to the  
8 operation of the inspector general does not take precedence over  
9 the authority of the state auditor to conduct an audit under Chapter  
10 321 or other law.

11 Sec. 531.736. BUDGET. (a) The inspector general shall  
12 submit a budget in accordance with the reporting requirements of  
13 the General Appropriations Act.

14 (b) The inspector general shall submit to the commission a  
15 legislative appropriations request and an operating budget in  
16 accordance with the service level agreement entered into under  
17 Section 531.704 and applicable law.

18 (c) The commission shall submit the office's appropriations  
19 request and, if required by or under law, operating budget to the  
20 legislature. The request or budget is not subject to review,  
21 alteration, or modification by the commission or executive  
22 commissioner before submission to the legislature.

23 Sec. 531.737. COSTS. (a) The inspector general shall  
24 maintain information regarding the cost of reviews.

25 (b) The inspector general may cooperate with appropriate  
26 administrative and prosecutorial agencies, including the office of  
27 the attorney general, in recovering costs incurred under this

subchapter from nongovernmental entities, including contractors or individuals involved in:

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

(2) abusive or wilful misconduct; or

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

Sec. 531.738. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

(a) The office may:

(1) act for 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 a health and human services agency:

(1) the health and human services 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 subchapter, and applicable laws governing the imposition of a penalty by the health and human services agency.

Sec. 531.739. PEACE OFFICER INVESTIGATORS. (a) An investigator assigned to conduct investigations for the office may

1 be a commissioned peace officer. The number of commissioned peace  
2 officers assigned to conduct investigations may not exceed 15  
3 percent of the office's full-time equivalent positions.

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

10 SECTION 2. Section 531.001, Government Code, is amended by  
11 adding Subdivision (4-a) to read as follows:

12 (4-a) "Office of inspector general" means the office  
13 of inspector general established under Subchapter R.

14 SECTION 3. Section 531.008(c), Government Code, is amended  
15 to read as follows:

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

18 (1) the eligibility services division to make  
19 eligibility determinations for services provided through the  
20 commission or a health and human services agency related to:

21 (A) the child health plan program;

22 (B) the financial assistance program under  
23 Chapter 31, Human Resources Code;

24 (C) the medical assistance program under Chapter  
25 32, Human Resources Code;

26 (D) the nutritional assistance programs under  
27 Chapter 33, Human Resources Code;

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

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

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

~~(2) [the office of inspector general to perform fraud and abuse investigation and enforcement functions as provided by Subchapter C and other law;~~

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

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

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

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

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

SECTION 4. Sections 531.103(a), (c), and (d), Government Code, are amended to read as follows:

(a) The ~~[commission, acting through the commission's]~~ office of inspector general~~[7]~~ and the office of the attorney general shall enter into a memorandum of understanding to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, as those terms are defined by state or federal law, or other violations of state or federal law

1 under the state Medicaid program or other program administered by  
2 the commission or a health and human services agency, including the  
3 financial assistance program under Chapter 31, Human Resources  
4 Code, a nutritional assistance program under Chapter 33, Human  
5 Resources Code, and the child health plan program. The memorandum  
6 of understanding shall require:

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

15           (1-a) the office of inspector general to refer each  
16 case of suspected provider fraud, waste, or abuse to the office of  
17 the attorney general not later than the 20th business day after the  
18 date the office of inspector general determines that the existence  
19 of fraud, waste, or abuse is reasonably indicated;

20           (1-b) the office of the attorney general to take  
21 appropriate action in response to each case referred to the  
22 attorney general, which action may include direct initiation of  
23 prosecution, with the consent of the appropriate local district or  
24 county attorney, direct initiation of civil litigation, referral to  
25 an appropriate United States attorney, a district attorney, or a  
26 county attorney, or referral to a collections agency for initiation  
27 of civil litigation or other appropriate action;

1           (2) the office of inspector general to keep detailed  
2 records for cases processed by that office or the office of the  
3 attorney general, including information on the total number of  
4 cases processed and, for each case:

5                   (A) the agency and division to which the case is  
6 referred for investigation;

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

8                   (C) the nature of the suspected fraud, waste, or  
9 abuse;

10           (3) the office of inspector general to notify each  
11 appropriate division of the office of the attorney general of each  
12 case referred by the office of inspector general;

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

17           (5) the office of the attorney general to notify the  
18 office of inspector general of each case the attorney general  
19 declines to prosecute or prosecutes unsuccessfully;

20           (6) representatives of the office of inspector general  
21 and of the office of the attorney general to meet not less than  
22 quarterly to share case information and determine the appropriate  
23 agency and division to investigate each case; and

24           (7) the office of inspector general and the office of  
25 the attorney general to submit information requested by the  
26 comptroller about each resolved case for the comptroller's use in  
27 improving fraud detection.

1           (c) The office of inspector general [~~commission~~] and the  
 2 office of the attorney general shall jointly prepare and submit a  
 3 semiannual report to the governor, lieutenant governor, speaker of  
 4 the house of representatives, and comptroller concerning the  
 5 activities of the office of the attorney general and the office of  
 6 inspector general [~~those agencies~~] in detecting and preventing  
 7 fraud, waste, and abuse under the state Medicaid program or other  
 8 program administered by the commission or a health and human  
 9 services agency. The report may be consolidated with any other  
 10 report relating to the same subject matter the office of inspector  
 11 general [~~commission~~] or office of the attorney general is required  
 12 to submit under other law.

13           (d) The office of inspector general [~~commission~~] and the  
 14 office of the attorney general may not assess or collect  
 15 investigation and attorney's fees on behalf of any state agency  
 16 unless the office of inspector general, the office of the attorney  
 17 general, or another [~~other~~] state agency collects a penalty,  
 18 restitution, or other reimbursement payment to the state.

19           SECTION 5. Section 531.1031(a)(2), Government Code, is  
 20 amended to read as follows:

21                   (2) "Participating agency" means:

22                           (A) the Medicaid fraud enforcement divisions of  
 23 the office of the attorney general; [~~and~~]

24                           (B) each board or agency with authority to  
 25 license, register, regulate, or certify a health care professional  
 26 or managed care organization that may participate in the state  
 27 Medicaid program; and

1                    (C) the office of inspector general.

2            SECTION 6. Section 531.104(a), Government Code, is amended  
3 to read as follows:

4            (a) The office of inspector general ~~[commission]~~ and the  
5 attorney general shall execute a memorandum of understanding under  
6 which the office ~~[commission]~~ shall provide investigative support  
7 as required to the attorney general in connection with cases under  
8 Subchapter B, Chapter 36, Human Resources Code. Under the  
9 memorandum of understanding, the office ~~[commission]~~ shall assist  
10 in performing preliminary investigations and ongoing  
11 investigations for actions prosecuted by the attorney general under  
12 Subchapter C, Chapter 36, Human Resources Code.

13           SECTION 7. Section 531.105, Government Code, is amended to  
14 read as follows:

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

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

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

27           ~~[(b) The Texas Department of Health and the Texas~~



~~Department of Human Services, in cooperation with the commission, shall periodically set a goal of the number of potential cases of fraud, waste, or abuse under the state Medicaid program that each agency will attempt to identify and refer to the commission. The commission shall include information on the agencies' goals and the success of each agency in meeting the agency's goal in the report required by Section 531.103(c).]~~

SECTION 8. Sections 531.106(f) and (g), Government Code, are amended to read as follows:

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

(g) Each month, the learning or neural network technology implemented under this section must match bureau of vital statistics death records with Medicaid claims filed by a provider. If the commission or the office of inspector general determines that a provider has filed a claim for services provided to a person after the person's date of death, as determined by the bureau of vital statistics death records, ~~[the commission shall refer]~~ the case shall be referred for investigation to the office of inspector general or the office of the attorney general, as appropriate ~~[to the commission's office of investigations and enforcement]~~.

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

Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM. (a) The office of inspector general ~~[commission]~~ shall use an automated

1 fraud investigation tracking system [~~through the commission's~~  
2 ~~office of investigations and enforcement~~] to monitor the progress  
3 of an investigation of suspected fraud, waste, abuse, or  
4 insufficient quality of care under the state Medicaid program.

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

9 (1) receive electronically transferred records  
10 relating to the identified case from the learning or neural network  
11 technology;

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

16 (3) generate documents and reports related to the  
17 status of the case investigation; and

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

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

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

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

1 an automated recovery monitoring system to monitor the collections  
2 process for a settled case of fraud, waste, abuse, or insufficient  
3 quality of care under the state Medicaid program.

4 SECTION 11. Sections 531.107(a) and (f), Government Code,  
5 are amended to read as follows:

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

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

13 (1) information detailing:

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

16 (B) the time spent investigating each case;

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

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

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

23 (2) any additional information the task force  
24 requires.

25 SECTION 12. Sections 531.108 and 531.109, Government Code,  
26 are amended to read as follows:

27 Sec. 531.108. FRAUD PREVENTION. (a) The [~~commission's~~]

1 office of inspector general [~~investigations and enforcement~~] shall  
2 compile and disseminate accurate information and statistics  
3 relating to:

4 (1) fraud prevention; and

5 (2) post-fraud referrals received and accepted or  
6 rejected from the office's [~~commission's~~] case management system or  
7 the case management system of a health and human services agency.

8 (b) The office of inspector general [~~commission~~] shall[+  
9 [~~(1)~~] aggressively publicize successful fraud  
10 prosecutions and fraud-prevention programs through all available  
11 means, including the use of statewide press releases [~~issued in~~  
12 ~~coordination with the Texas Department of Human Services, and~~

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

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

24 (d) The office of inspector general [~~commission~~] shall:

25 (1) verify automobile information that is used as  
26 criteria for eligibility; and

27 (2) establish a computerized matching system with the

1 Texas Department of Criminal Justice to prevent an incarcerated  
2 individual from illegally receiving public assistance benefits  
3 administered by the commission.

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

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

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

22 (c) Based on the results of the annual review of claims, the  
23 office of inspector general and the commission shall determine the  
24 types of claims at which office and commission resources for fraud,  
25 waste, and abuse detection should be primarily directed.

26 SECTION 13. Sections 531.110(a), (c), (d), (e), and (f),  
27 Government Code, are amended to read as follows:

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

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

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

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

23          (f) The office of inspector general [~~commission~~] shall  
24 report biennially to the legislature the results of the electronic  
25 data matching program. The report must include a summary of the  
26 number of applicants who were removed from eligibility for  
27 assistance under the state Medicaid program as a result of an

1 electronic data match conducted under this section.

2 SECTION 14. Section 531.1112, Government Code, is amended  
3 to read as follows:

4 Sec. 531.1112. STUDY CONCERNING INCREASED USE OF TECHNOLOGY  
5 TO STRENGTHEN FRAUD DETECTION AND DETERRENCE; IMPLEMENTATION. (a)  
6 The commission and the [~~commission's~~] office of inspector general  
7 shall jointly study the feasibility of increasing the use of  
8 technology to strengthen the detection and deterrence of fraud in  
9 the state Medicaid program. The study must include the  
10 determination of the feasibility of using technology to verify a  
11 person's citizenship and eligibility for coverage.

12 (b) The commission shall implement any methods the  
13 commission and the [~~commission's~~] office of inspector general  
14 determine are effective at strengthening fraud detection and  
15 deterrence.

16 SECTION 15. Section 531.113, Government Code, is amended to  
17 read as follows:

18 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL  
19 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care  
20 organization that provides or arranges for the provision of health  
21 care services to an individual under a government-funded program,  
22 including the Medicaid program and the child health plan program,  
23 shall:

24 (1) establish and maintain a special investigative  
25 unit within the managed care organization to investigate fraudulent  
26 claims and other types of program waste or abuse by recipients and  
27 service providers; or

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

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

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

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

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

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

19           (5) a description or chart outlining the  
20 organizational arrangement of the managed care organization's  
21 personnel responsible for investigating and reporting possible  
22 acts of fraud, waste, or abuse;

23           (6) a detailed description of the results of  
24 investigations of fraud, waste, and abuse conducted by the managed  
25 care organization's special investigative unit or the entity with  
26 which the managed care organization contracts under Subsection  
27 (a)(2); and



1           (7) provisions for maintaining the confidentiality of  
2 any patient information relevant to an investigation of fraud,  
3 waste, or abuse.

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

9                 (1) a copy of the written contract;

10                (2) the names, addresses, telephone numbers, and fax  
11 numbers of the principals of the entity with which the managed care  
12 organization has contracted; and

13                (3) a description of the qualifications of the  
14 principals of the entity with which the managed care organization  
15 has contracted.

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

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

21           SECTION 16. Sections 531.114(b) and (g), Government Code,  
22 are amended to read as follows:

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

26                 (1) notify the person of the alleged violation not  
27 later than the 30th day after the date the office ~~[commission]~~

1 completes the investigation and provide the person with an  
2 opportunity for a hearing on the matter; or

3 (2) refer the matter to the appropriate prosecuting  
4 attorney for prosecution.

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

7 SECTION 17. Section 533.005(a), Government Code, is amended  
8 to read as follows:

9 (a) A contract between a managed care organization and the  
10 commission for the organization to provide health care services to  
11 recipients must contain:

12 (1) procedures to ensure accountability to the state  
13 for the provision of health care services, including procedures for  
14 financial reporting, quality assurance, utilization review, and  
15 assurance of contract and subcontract compliance;

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

18 (3) a requirement that the managed care organization  
19 provide ready access to a person who assists recipients in  
20 resolving issues relating to enrollment, plan administration,  
21 education and training, access to services, and grievance  
22 procedures;

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

27 (5) a requirement that the managed care organization

1 provide information and referral about the availability of  
2 educational, social, and other community services that could  
3 benefit a recipient;

4 (6) procedures for recipient outreach and education;

5 (7) a requirement that the managed care organization  
6 make payment to a physician or provider for health care services  
7 rendered to a recipient under a managed care plan not later than the  
8 45th day after the date a claim for payment is received with  
9 documentation reasonably necessary for the managed care  
10 organization to process the claim, or within a period, not to exceed  
11 60 days, specified by a written agreement between the physician or  
12 provider and the managed care organization;

13 (8) a requirement that the commission, on the date of a  
14 recipient's enrollment in a managed care plan issued by the managed  
15 care organization, inform the organization of the recipient's  
16 Medicaid certification date;

17 (9) a requirement that the managed care organization  
18 comply with Section 533.006 as a condition of contract retention  
19 and renewal;

20 (10) a requirement that the managed care organization  
21 provide the information required by Section 533.012 and otherwise  
22 comply and cooperate with the ~~[commission's]~~ office of inspector  
23 general;

24 (11) a requirement that the managed care  
25 organization's usages of out-of-network providers or groups of  
26 out-of-network providers may not exceed limits for those usages  
27 relating to total inpatient admissions, total outpatient services,

1 and emergency room admissions determined by the commission;

2 (12) if the commission finds that a managed care  
3 organization has violated Subdivision (11), a requirement that the  
4 managed care organization reimburse an out-of-network provider for  
5 health care services at a rate that is equal to the allowable rate  
6 for those services, as determined under Sections 32.028 and  
7 32.0281, Human Resources Code;

8 (13) a requirement that the organization use advanced  
9 practice nurses in addition to physicians as primary care providers  
10 to increase the availability of primary care providers in the  
11 organization's provider network;

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

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

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

26 (B) the contracting with physicians who are not  
27 network providers and who are of the same or related specialty as

1 the appealing physician to resolve claims disputes related to  
2 denial on the basis of medical necessity that remain unresolved  
3 subsequent to a provider appeal; and

4 (C) the determination of the physician resolving  
5 the dispute to be binding on the managed care organization and  
6 provider.

7 SECTION 18. Section 533.012(c), Government Code, is amended  
8 to read as follows:

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

13 SECTION 19. Section 21.014(b), Human Resources Code, is  
14 amended to read as follows:

15 (b) The ~~[person employed by the department as]~~ inspector  
16 general appointed under Subchapter R, Chapter 531, Government Code,  
17 shall make reports to and consult with the agency director  
18 ~~[chairman of the board]~~ regarding:

19 (1) the selection of internal audit topics;

20 (2) the establishment of internal audit priorities;

21 and

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

24 SECTION 20. Section 32.003, Human Resources Code, is  
25 amended by adding Subdivision (5) to read as follows:

26 (5) "Office of inspector general" means the office of  
27 inspector general established under Subchapter R, Chapter 531,

1 Government Code.

2 SECTION 21. Section 32.0291, Human Resources Code, is  
3 amended to read as follows:

4 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

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

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

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

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

21 (c) On timely written request by a provider subject to a  
22 postpayment hold under Subsection (b), the office of inspector  
23 general [~~department~~] shall file a request with the State Office of  
24 Administrative Hearings for an expedited administrative hearing  
25 regarding the hold. The provider must request an expedited hearing  
26 under this subsection not later than the 10th day after the date the  
27 provider receives notice from the office of inspector general

1 ~~[department]~~ under Subsection (b). The office of inspector general  
2 ~~[department]~~ shall discontinue the hold unless the office  
3 ~~[department]~~ makes a prima facie showing at the hearing that the  
4 evidence relied on by the office of inspector general ~~[department]~~  
5 in imposing the hold is relevant, credible, and material to the  
6 issue of fraud, waste, abuse, or wilful misrepresentation.

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

20 SECTION 22. Section 32.032, Human Resources Code, is  
21 amended to read as follows:

22 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD, WASTE, AND  
23 ABUSE. The inspector general ~~[department]~~ shall adopt reasonable  
24 rules for minimizing the opportunity for fraud, waste, and abuse,  
25 for establishing and maintaining methods for detecting and  
26 identifying situations in which a question of fraud, waste, or  
27 abuse in the program may exist, and for referring cases where fraud,

1 waste, or abuse appears to exist to the appropriate law enforcement  
2 agencies for prosecution.

3 SECTION 23. Sections 32.0321(a) through (d), Human  
4 Resources Code, are amended to read as follows:

5 (a) The office of inspector general ~~[department]~~ by rule may  
6 recommend to the department and the department by rule may require  
7 that each provider of medical assistance in a provider type that has  
8 demonstrated significant potential for fraud, waste, or abuse to  
9 file with the department a surety bond in a reasonable amount. The  
10 office and the department by rule shall each require a provider of  
11 medical assistance to file with the department a surety bond in a  
12 reasonable amount if the office ~~[department]~~ identifies a pattern  
13 of suspected fraud, waste, or abuse involving criminal conduct  
14 relating to the provider's services under the medical assistance  
15 program that indicates the need for protection against potential  
16 future acts of fraud, waste, or abuse.

17 (b) The bond under Subsection (a) must be payable to the  
18 department to compensate the department for damages resulting from  
19 or penalties or fines imposed in connection with an act of fraud,  
20 waste, or abuse committed by the provider under the medical  
21 assistance program.

22 (c) Subject to Subsection (d) or (e), the office of  
23 inspector general and the department by rule may require each  
24 provider of medical assistance that establishes a resident's trust  
25 fund account to post a surety bond to secure the account. The bond  
26 must be payable to the department to compensate residents of the  
27 bonded provider for trust funds that are lost, stolen, or otherwise



1 unaccounted for if the provider does not repay any deficiency in a  
2 resident's trust fund account to the person legally entitled to  
3 receive the funds.

4 (d) The office of inspector general and the department may  
5 not require the amount of a surety bond posted for a single facility  
6 provider under Subsection (c) to exceed the average of the total  
7 average monthly balance of all the provider's resident trust fund  
8 accounts for the 12-month period preceding the bond issuance or  
9 renewal date.

10 SECTION 24. Section 32.0322(a), Human Resources Code, is  
11 amended to read as follows:

12 (a) The office of inspector general and the department may  
13 obtain from any law enforcement or criminal justice agency the  
14 criminal history record information that relates to a provider  
15 under the medical assistance program or a person applying to enroll  
16 as a provider under the medical assistance program.

17 SECTION 25. Section 32.070(d), Human Resources Code, is  
18 amended to read as follows:

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

26 SECTION 26. Section 33.015(e), Human Resources Code, is  
27 amended to read as follows:

1           (e) The department shall require a person exempted under  
2 this section from making a personal appearance at department  
3 offices to provide verification of the person's entitlement to the  
4 exemption on initial eligibility certification and on each  
5 subsequent periodic eligibility recertification. If the person  
6 does not provide verification and the department considers the  
7 verification necessary to protect the integrity of the food stamp  
8 program, the department shall initiate a fraud referral to the  
9 ~~[department's]~~ office of inspector general established under  
10 Subchapter R, Chapter 531, Government Code.

11           SECTION 27. Article 2.12, Code of Criminal Procedure, is  
12 amended to read as follows:

13           Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
14 officers:

15               (1) sheriffs, their deputies, and those reserve  
16 deputies who hold a permanent peace officer license issued under  
17 Chapter 1701, Occupations Code;

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

21               (3) marshals or police officers of an incorporated  
22 city, town, or village, and those reserve municipal police officers  
23 who hold a permanent peace officer license issued under Chapter  
24 1701, Occupations Code;

25               (4) rangers and officers commissioned by the Public  
26 Safety Commission and the Director of the Department of Public  
27 Safety;

1           (5) investigators of the district attorneys', criminal  
2 district attorneys', and county attorneys' offices;

3           (6) law enforcement agents of the Texas Alcoholic  
4 Beverage Commission;

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

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

9           (9) officers commissioned by the General Services  
10 Commission;

11           (10) law enforcement officers commissioned by the  
12 Parks and Wildlife Commission;

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

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

20           (13) municipal park and recreational patrolmen and  
21 security officers;

22           (14) security officers and investigators commissioned  
23 as peace officers by the comptroller;

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

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

1           (17) investigators commissioned by the Texas Medical  
2 Board;

3           (18) officers commissioned by the board of managers of  
4 the Dallas County Hospital District, the Tarrant County Hospital  
5 District, or the Bexar County Hospital District under Section  
6 281.057, Health and Safety Code;

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

9           (20) investigators employed by the Texas Racing  
10 Commission;

11           (21) officers commissioned under Chapter 554,  
12 Occupations Code;

13           (22) officers commissioned by the governing body of a  
14 metropolitan rapid transit authority under Section 451.108,  
15 Transportation Code, or by a regional transportation authority  
16 under Section 452.110, Transportation Code;

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

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

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

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

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

27           (28) an investigator commissioned by the commissioner

1 of insurance under Section 701.104, Insurance Code;

2 (29) apprehension specialists and inspectors general  
3 commissioned by the Texas Youth Commission as officers under  
4 Sections 61.0451 and 61.0931, Human Resources Code;

5 (30) officers appointed by the inspector general of  
6 the Texas Department of Criminal Justice under Section 493.019,  
7 Government Code;

8 (31) investigators commissioned by the Commission on  
9 Law Enforcement Officer Standards and Education under Section  
10 1701.160, Occupations Code;

11 (32) commission investigators commissioned by the  
12 Texas Private Security Board under Section 1702.061(f),  
13 Occupations Code;

14 (33) the fire marshal and any officers, inspectors, or  
15 investigators commissioned by an emergency services district under  
16 Chapter 775, Health and Safety Code;

17 (34) officers commissioned by the State Board of  
18 Dental Examiners under Section 254.013, Occupations Code, subject  
19 to the limitations imposed by that section; ~~and~~

20 (35) investigators commissioned by the Texas Juvenile  
21 Probation Commission as officers under Section 141.055, Human  
22 Resources Code; and

23 (36) officers commissioned by the office of inspector  
24 general established under Subchapter R, Chapter 531, Government  
25 Code.

26 SECTION 28. Sections 531.102 and 531.1021, Government Code,  
27 are repealed.

1           SECTION 29. (a) The repeal by this Act of Section 531.102,  
2 Government Code, does not affect the validity of a complaint,  
3 investigation, or other proceeding initiated under that section  
4 before the effective date of this Act. A complaint, investigation,  
5 or other proceeding initiated under that section is continued in  
6 accordance with the changes in law made by this Act.

7           (b) The repeal by this Act of Section 531.1021, Government  
8 Code, does not affect the validity of a subpoena issued under that  
9 section before the effective date of this Act. A subpoena issued  
10 under that section before the effective date of this Act is governed  
11 by the law that existed when the subpoena was issued, and the former  
12 law is continued in effect for that purpose.

13          SECTION 30. (a) The person serving as inspector general  
14 under Section 531.102(a-1), Government Code, on the effective date  
15 of this Act shall serve as the inspector general appointed under  
16 Subchapter R, Chapter 531, Government Code, as added by this Act,  
17 until February 1, 2011, and may be reappointed under Subchapter R,  
18 Chapter 531, if the person has the qualifications required under  
19 that subchapter.

20          (b) Not later than February 1, 2011, the governor shall  
21 appoint an inspector general for the Office of Inspector General  
22 under Subchapter R, Chapter 531, Government Code, as added by this  
23 Act, to a term expiring February 1, 2013.

24          SECTION 31. On the effective date of this Act:

25               (1) all functions, activities, employees, rules,  
26 forms, money, property, contracts, memorandums of understanding,  
27 records, and obligations of the office of inspector general under

1 Section 531.102(a-1), Government Code, become functions,  
2 activities, employees, rules, forms, money, property, contracts,  
3 memorandums of understanding, records, and obligations of the  
4 Office of Inspector General established under Subchapter R, Chapter  
5 531, Government Code, as added by this Act, without a change in  
6 status; and

7 (2) all money appropriated or budgeted for the office  
8 of inspector general under Section 531.102(a-1), Government Code,  
9 including money for providing administrative support, is  
10 considered appropriated for the use of the Office of Inspector  
11 General established under Subchapter R, Chapter 531, Government  
12 Code, as added by this Act.

13 SECTION 32. If before implementing any provision of this  
14 Act a state office or agency determines that a waiver or  
15 authorization from a federal agency is necessary for implementation  
16 of that provision, the office or agency affected by the provision  
17 shall request the waiver or authorization and may delay  
18 implementing that provision until the waiver or authorization is  
19 granted.

20 SECTION 33. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2009.