

FORMATTING NOTE:

In initiatives, legislative bills and other proposed measures, language that is to be deleted from current statutes is represented by a "strikethrough" character and language that is to be added is underlined. Because these special characters cannot be formatted in all Internet browsers, a different set of symbols is used for presenting these proposals on-line. The symbols are as follows:

- Text that is surrounded by (({- text here -})) is text that will be DELETED FROM the existing statute if the proposed measure is approved.
- Text that is surrounded by {+ text here +} is text that will be ADDED TO the existing statute if the proposed measure is approved.
- {+ NEW SECTION+} (found at the beginning of a section or paragraph) indicates that ALL of the text in that section will become law if the proposed measure is approved.

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INITIATIVE 242

AN ACT relating to the Office of State Inspector General; adding a new chapter to Title 43 RCW; reenacting and amending RCW 43.17.010; amending RCW 43.17.020; and adding a new section to chapter 41.06 RCW.

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

NEW SECTION. Sec. 1. Purpose- It is the purpose of this chapter to create a new oversight agency to improve efficiency and accountability, and promote honesty, ethics and integrity in societal practices. This agency is meant to fill a void in the society by resolving problems and eliminating the need for court litigation over every instance of victim abuse, and by helping to instill conscientious and ethical attitudes, actions and practices in all sectors of society.

NEW SECTION. Sec. 2. Duties- The Office of State Inspector General shall be required to investigate and resolve complaints of governmental neglect or abuse, and to facilitate or enforce fair and ethical practices in all sectors of society.

NEW SECTION. Section 3. Definitions- Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter:

(1) "Office" or "agency" or "agency" refers to the Office of State Inspector General;

(2) "Lay individual" means anyone not affiliated with the bar, or governmental legislative or enforcement entities;

(3) "General public" means anyone not connected with this agency.

(4) "Unwary or helpless individuals" means those being cheated, abused, bullied or exploited, or those whose lives or property are in jeopardy of unfair or unjustifiable disruption;

(5) "Fair and ethical practices" means that which does not fool, cheat nor injury others;

(6) "Fairness and common sense" means that which reasonable minds would likely concur and agree;

(7) "Reasonable minds" means fair, impartial and benevolent.

NEW SECTION. Section 4. Vestment of Powers- (1) There is created a new oversight agency in state government to be known as the Office of State Inspector General, to help monitor and enforce honesty and ethics, and improve oversight, efficiency and accountability in societal practices. (2) The agency is vested with such powers and responsibilities as are authorized by law, and the Legislature shall from time to time review agency structures and procedures towards improving operational effectiveness. (3) Any proposed legislative amendments to these provisions shall be submitted for public review and comment, and any court challenges to such amendments shall be filed within 30 days of such notification. (4) The agency shall be represented in any such challenges by conscientious and responsible members of the Attorney General staff who shall not be focused on prevailing in actions per se, as much as promoting principles of justice and fair play.

NEW SECTION. Section 5. Independence of Agency- (1) It is intended that the Office of State Inspector General, a civilian post, shall be a People's Advocate in guarding against fraud or abuse from any quarter. Recognizing that maintaining the independence and integrity of this agency is critical, it shall remain independent of any social, political or economic interests, and care shall be taken to prevent undue influence over this agency by governmental entities, or any other vested interests who themselves might be subject to scrutiny by this agency. (2) In maintaining it's purely objective, impartial and benevolent mission, under no circumstances shall this agency exercise any direct police powers over the general public, and nor shall it serve as a vanguard for any particular social, capital or political interests or agendas.

NEW SECTION. Section 6. Funding- (1) The Office of State Inspector General shall be financed by (a) the State General fund; (b) by any federal grants for which it qualifies, and (c) any gifts, grants or endowments it receives from public or private entities. (2) The Office shall be authorized to purchase facilities, equipment and supplies in the conducting of it's business, and to enter into contracts with public or private entities for studies or other services. (3) The Office shall undergo a complete annual audit, and shall publish an annual report summarizing it's activities. (4) All files and reports of this agency shall be available for public review, Provided that (a) portions of files deemed confidential for good and justifiable cause may be withheld from general perusal, as well as materials deemed classified for military purposes, and (b) whereas government may provide freedoms of speech/press for purposes of redress of grievance against government abuse without fear of reprisals from government, government has no right to give such organisms free reign to harm or injure anyone else at whim. Accordingly, this agency shall not allow informations from it's files to be used by the power of the commercial media to effectually defame, embarrass or damage anyone else by name.

NEW SECTION. Section 7. Oversight by Executive Committee- (1) An Executive Committee shall be established to oversee agency operations, to approve executive appointments within the agency, and to accept reconsideration appeals from agency decisions. (2) The Executive Committee shall be comprised of six members, the majority of whom shall be lay individuals, and the Legislature shall determine the manner in which such members are to be selected and installed, and their terms,

so as best to assure integrity and continuity of mission.

NEW SECTION. Section 8. Directorship- (1) The administrative head of the agency shall be the Director, who shall be responsible for all official acts by personnel under his direction.

(2) The Director shall be elected at large for a maximum of one four-year term. Applicants wishing to stand for election to the position of Director shall undergo screening and civil service examinations to ascertain that they qualify to run for election, and the public shall be afforded an opportunity to provide personal knowledge or comments upon their qualifications. Thereafter, the Executive Committee shall issue a determination of fitness to run for election to this office. Applicants to the position of Director shall file their intent to run one year before the next election period. (3) The Director shall be paid a salary in accordance with RCW 43.03.040. (4) Exercising supervisory responsibilities over the agency, the Director may employ such assistants and personnel as are deemed necessary for the general administration of the Office, after consulting with and obtaining the approval of the Executive Committee. The Director shall appoint a deputy director, an office personnel director, and such other assistant or division directors as may be needed to administer the office. This employment shall be in accordance with State Civil Service law, Chapter 41.06, except as otherwise provided. (5) The deputy director shall have charge and general supervision over the office in the absence or disability of the Director, and in case of vacancy in the office, the deputy director shall continue in charge of the Office until a successor is qualified and appointed. (6) The Director may be dismissed for good cause by (a) a recall of the electorate by petition process, (b) an act of the Legislature, or (c) a criminal action instituted by the Attorney General.

NEW SECTION. Section 9. Consulting Committees- (1) The Office may appoint state-wide committees or councils on such matters as come within the Office's responsibilities. Such committees or councils shall have substantial consumer representation, and may be paid travel expenses in accordance with RCW 43.03.050 and RCW 43.03.060. (2) The Office may also appoint masters to monitor and report on progress in particular areas or venues. Such masters shall be paid fair and reasonable expenses. (3) The Office may also appoint such committees or councils as may be required as a condition to receipt of federal funds for the Office.

NEW SECTION. Section 10. Volunteers- The Director may enlist the assistance of qualified volunteers from the public sector, as provided by State Internship codes, Provided that those applying as volunteers with this agency, be they law students, police cadets, or any others, shall undergo the same rigorous screening and qualifying examination as those appointed to full-time staff.

NEW SECTION. Section 11. Grounds for Removal- (1) Recognizing that a cross section of the populace would likely yield a certain percentage of individuals who are abusive, devious or dishonest, or otherwise unbalanced, dysfunctional or potentially dangerous in their dealings with the public, all perspective personnel in this agency shall undergo intelligence and psychological testing to ascertain basic sanity, reasoning powers and moral stability, and to discern any personal biases or agendas they might harbour. (2) All appointments within this

agency shall be with an eye to integrity and dedication, rather than to filling any racial or sexist schemes or quota systems. (3) To maintain a stable and reliable workforce, periodic counseling shall be available for personnel who may be experiencing difficulties in their personal lives, and temporary reassignment to less taxing decision-making duties should be available for those who may be having difficulty coping. (4) The agency shall have procedures for reviewing complaints of abuse or remiss by agency personnel, or any unreasonable or malevolent attitudes. A Board of Supervisors shall be established to advise personnel, randomly examine files, and otherwise assure that cases are being handled in a proper, professional, and timely manner. (5) Any neglect, abuse, or betrayal of the public trust shall be grounds for immediate suspension or dismissal per state personnel processes, and/or criminal prosecution under RCW 43.01.125, or any other applicable statutes. (6) Personnel at any level may be subject to recall by an informed electorate, Provided, that pursuant to Constitutional provisions against reckless or irresponsible speech, any reports which appear misleading, malicious or libelous, or designed to merely harass or intimidate any personnel of this agency, may be viewed as form of media assault, and this agency may seek equal time and space to rebut unfounded allegations.

NEW SECTION. Section 12. Authority to Conduct Hearings- (1) While efforts shall be made to resolve complaints quickly and amicably, this agency shall have authority to gather evaluate and decide facts through a hearings process. The agency shall have authority to issue subpoenas, convene and conduct hearings, take testimony and exhibits, and issue Findings of Fact and Decision. (2) A Hearing Examiner shall be appointed to preside over hearings, and issue Findings of Fact and Decision. Hearings Examiners appointed may, but need not be, personnel of this agency, nor necessarily lawyers. (3) The Office shall determine the time, manner, locale and format of any particular hearing, and hearings shall be convened at a location convenient to the parties, whenever practical. Municipalities may be requested to provide hearing facilities, if needed. (4) A Hearings Handbook shall be provided to all parties, and hearing rules shall be simple and concise, easily understood and applied by anyone, and devoid of legal jargon or obscure legal principles designed to confound the public. (5) The agency may appoint volunteer personnel to assist mute, inarticulate or non-lingual individuals. (7) Court reporters may be present to transcribe proceedings, but in all cases hearings shall be carefully audio or video recorded to assure completely accurate transcripts of proceedings. (8) Hearings shall be convened within 60 days of a complaints' receipt, and shall be decided within 60 days thereafter, unless continued for good cause. Any case unresolved within that period may be remanded to an office of special counsel for further proceedings, or court action. The reasons for such delay shall be specified. (9) All decisions by this agency shall be based strictly on fairness and common sense, as might be reached by any reasonable minds, and shall be decided on a case-by-case basis, rather than on any precedent. All agency decisions shall include a full explanation of the facts and basis of the decision. (10) In those rare instances where a completely fair and just decision is difficult based on the facts or circumstances, the Hearing Examiner shall state the facts and basis for such, and the case may be remanded to a panel for a compromise decision. (11) The 'adversarial' system of justice at play at most court settings appears to allow lawyers to lie, misrepresent

facts or factors, or otherwise harm innocent parties whenever convenient to prevail. Such practices shall not be tolerated by this agency. Anyone whomsoever found to be lying, falsifying or misrepresenting any fact or issue before a hearing by this agency shall be remanded for prosecution by the Attorney General for perjury, or felonious deception.

NEW SECTION. Section 13. Filing Complaints- (1) Complaints filed with this agency shall be submitted in writing, and the agency may require a Sworn Affidavit from complainants attesting to the accuracy and truthfulness of their allegations, for hearings to proceed. (2) The agency may, at its discretion, accept anonymous complaints, when filing a complaint is deemed to be awkward, or possibly dangerous, to complainants in their circumstances. (3) It being conceivable that frivolous, deceitful or malicious complaints might be filed by petty, spiteful or troublesome individuals merely for the sake of harassment or obstruction, this agency may require doubtful or suspect complainants to post a bond or volunteer to a polygraph examination, for hearings to convene. (4) It shall be unlawful for anyone to retaliate against any complainant filing a grievance with this agency, but by the same token, obviously frivolous complaints shall be prosecutable under harassment statutes.

NEW SECTION. Section 14. Appeals- (1) Any appeals for reconsideration from a decision by this agency shall be directed to an Executive Committee Review Board, which may amend a decision in the interest of fairness. (2) Appeals for reconsideration from a Hearing Examiner's decision shall be filed with the Review Board within 20 days, and a final and formal decision shall be issued by the Review Board within 30 days. The agency may thereafter proceed to the District Court for any necessary orders or injunctions. (3) An appeal of any fines or injunctions ordered by the District Court may be filed by parties to the Superior Court, Provided that (a) appellants post any required bond pertinent to filing such appeals, (b) any injunctions or fines secured by District Court order shall remain in effect during the appeal process, and until amended on review. (3) Should the federal government subsequently establish a Federal Judge Advocate agency specific to such appeals from this agency's decisions, appeals will thenupon be directed to that agency.

NEW SECTION. Section 15. Authority to Rectify Wrongdoing- (1) The Office shall have authority to rectify wrongdoings or deficiencies harmful or disruptive to innocent, helpless or unwary parties, and may do any of the following to resolve cases satisfactorily: (a) issue cease and desist warnings, (b) require some form of corrective action or restitution, or (c) bring an action in court towards working with other agencies to compel adherence, or issue fines for wrongdoing, from any wilful disregard of its findings. (2) The agency shall have authority to seek fines at court for wrongdoing in amounts of up to \$10. per day against individuals, \$100. per day against businesses or those acting on behalf of businesses, and amounts over \$1,000. per day against governmental entities. (3) In cases of unpaid fines, the Office may apply at court for liens against the personal or business property of intentional violators, or liens converted to judgments against the wages of future earnings of wrongdoers. (4) This agency shall work with the courts in securing judgments to enforce decisions if necessary, or for injunctions against unfair, abusive or fraudulent

practices. Court actions by this agency shall be at the District Court level where applicable, and any court actions by or pertinent to a case involving this agency shall take precedence over all other cases, and be decided promptly. (5) While not intended to levy entire damage awards or criminal penalties for negligent or intentionally injurious practices as might be ascertained through civil or criminal proceedings in a court of law, the agency shall support injured parties against obdurate parties in subsequent court proceedings.

NEW SECTION. Section 16. Authority to Intercede Upon or Revise Agency Actions or Decisions- (1) The Office of State Inspector General shall be authorized and may review complaints of any governmental, agency or departmental act or decision deemed to be unfair, harmful or unjust. Where life or property are in imminent jeopardy of unfair or unjustifiable disruption, this agency shall have authority to suspend any departmental order, pending review by this agency; and thereafter to amend any action deemed to be petty, overly burdensome or cruel. (2) The agency may decline cases for insufficient basis, or as not being within the scope of their responsibilities. The agency may review policies, practices and procedures within corrections or military facilities that are deemed to be other than normal and reasonable processes designed to maintain order and discipline in those facilities. (3) This agency shall have prompt and ready access to all public offices, facilities and records, and public employee cooperation with this agency shall be mandatory. (4) In cases of alleged misconduct or malfeasance by executive or legislative officials, the Office shall have authority to submit prima facie evidence to a judicial panel convened for the purpose, and investigations shall proceed upon warrant of probable cause. (5) While having authority to censure, fine, suspend or recommend the firing of public employees for neglect, malfeasance or abuse, this range shall not extend to federal personnel operating in the state, except to notify appropriate federal agencies of findings. If violative actions persist after such notification, the agency may institute suit against the appropriate federal agency, either on it's own behalf or with the assistance of the Attorney General, to halt or curtail such practices.

NEW SECTION. Section 17. Judicial Performance Not Exempt from Review- (1) A reliable judiciary is crucial to a democracy which serves it's people, and Americans have a right to demand that justice be mandatory in American courts. Judges are not meant to be tyrants beyond reproach, and the 'independence' of judges does not imply that they should be unaccountable from ineptness, crimes or abuses from the bench. As abuse of judicial office is unacceptable and akin to fraud, judicial performance shall not be exempt from review by this agency. (2) As this agency is responsible for ensuring honesty, ethics and accountable in all sectors of the society, the Legislature shall confer part of it oversight authorities upon this agency, and develop such means by which this agency can review and challenge any court action or decision deemed to be arbitrary, abusive, or contrary to facts and law. (3) To facilitate review of court cases, this agency may enlist the assistance of volunteer review personnel, including shut-ins from the public sector, such as the elderly, inform or incarcerated, who are otherwise competent and qualified. (4) In the course of time, the Legislature may establish processes to reactivate cases reflecting other than fairness and common sense, and the Office shall work through the courts to revise, amend or overturn unjust decisions. (5) Judges

shall be required to explain the full basis of their decisions upon inquiries by this agency, and any certifiable findings of judicial neglect or abuse, such as (a) arbitrary, unjust or baseless rulings, (b) bias or favoritism constituting obstruction of justice, (c) deliberate evasion or misconstruance of facts leading to decisions reflecting other than fairness and common sense, or (d) chronic bad decisions requiring appeal, shall be reported to appropriate venues with recommendations for reprimand or censure. (6) Should it subsequently be devised that a Sentencing Authority will assign defendants to a particular corrections facilities, rather than judges or prosecutors who are less expert at corrections, this agency shall assist in examining facts or factors towards best placement, from the standpoint of safety and rehabilitation in those facilities.

NEW SECTION. Section 18. Proposed Legislation by Agency to Correct Dangerous and Wide-Spread Violations- (1) To maintain it's impartial viewpoint, this agency is not intended to act as a vangurad for any particular social causes. However, it can and should act to protect against wide-spread fraud or dangerous conditions it finds in the course of it's work. To this extent it could, at it's own discretion, forward proposed legislations towards preventing abuses. (2) The public shall be notified of any legislations proposed by this agency, and be afforded an opportunity to register any views on them, or challenge such proposed legislations in state court during the review period. (3) To keep tabs on what elected officials are doing in office, should it subsequently be required by law that any governing or legislative bodies must first present proposed legislations that effect the public to this Office to ascertain Constitutional muster before they are voted on, this agency may publish a commentary on how such proposed legislations benefit, or fail to benefit, the public. (5) Unreasonable or impossible laws being unenforceable in court, the Office may launch court challenges to any bad laws it finds in place.

NEW SECTION. Section 19. Competency Tests, Performance Bonds- (1) Should it subsequently be required by law that all public employees dealing with or affecting the public must carry a performance bond against intentional violations or misconduct that harms the public, this agency may conduct investigations to determine culpability and extent of injury, and shall thenupon assist injured parties in any court action to order recovery or restitution from the bond surety. (2) And should it subsequently be required by law that prosepctive voters or jurors should undergo intelligence and psychological testing to ascertain basic sanity, reasoning powers, and any personal biases they harbour, this agency shall assist in conducting such tests, compiling results, and disseminating recommendations.

NEW SECTION. Sec. 20. Effectiveness The legislature shall take up consideration of those processes and provisions necessary to bring this agency to operation, and it shall become fully operational within eighteen months of it's enactment.

NEW SECTION Sec. 21. RCW 43.17.010 and 1993 SP.S. C 2 S 16, 1993 C 472 S 17, and 1993C 280 S 18 are each reenacted and amended to read as follows: There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and

wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community trade, and community development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, ((and)) (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide, {+ and (16) the office of state inspector general +}.

NEW SECTION. Sec. 22. RCW 43.17.020 and 1995 1st SP.S. C 2 S 2 (Referendum Bill No. 45 are each amended to read as follows: There shall be a chief executive officer of each department to be known as: (1) the secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community trade, and community development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, ((and)) (15) the director of financial institutions, and (16) the director of the office of state inspector general.

Such officers, except the secretary of transportation, the director of fish and wildlife, [and the director of the office of state inspector general,] shall be appointed by the Governor, with the consent of the Senate, and hold office at the pleasure of the Governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055. And the director of the office of state inspector general would be elected at large in special and general elections, per applicable statutes.

NEW SECTION. Sec. 23. Sections 1 through 19 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 24. Severability- Should any section, subsection, paragraph, clause, phrase, sentence or word of this act be declared unconstitutional or invalid for any reason, such decision shall not effect the validity or enactment of the remaining portions of the chapter.

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