

Legislative Analysis



AGENTS OF DHHS INSPECTOR GENERAL: GRANT LIMITED ARREST POWERS

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Senate Bill 384 as passed by the Senate
Sponsor: Sen. Peter MacGregor

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 385 as passed by the Senate
Sponsor: Sen. Rick Jones
House Committee: Criminal Justice
Senate Committee: Judiciary

Complete to 10-26-15

SUMMARY:

Senate Bill 384 would allow the director of the Department of Health and Human Services to appoint agents of the Office of Inspector General with limited arrest powers to enforce laws pertaining to fraud regarding the federal food assistance program (SNAP), authorize the agents to carry firearms, and allow them to make warrantless arrests under certain circumstances.

Senate Bill 385 would exempt agents of the DHHS Inspector General from various firearms and weapons prohibitions. The bill is tie-barred to Senate Bill 384.

Both bills will take effect 90 days after enactment.

Senate Bill 384 amends the Social Welfare Act (MCL 400.43b). Currently, an Office of Inspector General is established in the Department of Health and Human Services as a criminal justice agency. The primary duty of the Inspector General is to investigate cases of alleged fraud within the DHHS. Duties also include investigating fraud, waste, and abuse in the programs administered by the department.

The bill amends the act to allow the DHHS director to appoint agents with limited arrest powers for the enforcement of retail trafficking of food assistance benefits administered by the department related to the federal Supplemental Nutrition Assistance Program (SNAP). The agents would be agents of the Office of Inspector General and would have all powers conferred upon peace officers for the purpose of enforcing the general laws of the state as they pertain to enforcement of the Social Welfare Act. The director may authorize the agents to carry a firearm. (The bill does not limit carrying a firearm to when the agent is on duty.)

In addition to the limited arrest powers described above, an agent of the Office of Inspector General—while on duty—could arrest a person without a warrant under the following circumstances:

- ❖ The agent has probable cause to believe that a felony has been committed and probable cause to believe that the person committed it. (The bill appears to apply this arrest power to any felony, not just crimes related to fraudulent acts under the Social Welfare Act.)
- ❖ The agent has probable cause to believe a felony offense for financial gain under Section 159g(d) or 159g(e) of the Michigan Penal Code has been committed and probable cause to believe that the person committed it. The references pertain to provisions of the Racketeering Act regarding:
 - Felony violations of the Michigan Public Health Code that prohibit the unlawful selling or distributing of a product containing ephedrine or pseudoephedrine, soliciting another to buy or obtain products containing ephedrine or pseudoephedrine for the purpose of manufacturing meth, or purchasing more than the lawful amount of products containing ephedrine or pseudoephedrine or possessing or purchasing such products knowing the product is to be used to manufacture meth. [Section 159g(d).]
 - A felony violation of the Social Welfare Act regarding welfare fraud by a false statement, impersonation or other fraudulent device, or using an access device to obtain or attempt to obtain benefits to which the person is not entitled. [Section 159g(e).]
- ❖ The agent has probable cause to believe that a felony offense under Section 300a of the Michigan Penal Code (pertaining to food stamps or access devices such as Bridge cards) has been committed and probable cause to believe that the person committed it.
- ❖ The agent has probable cause to believe that a felony offense using a fraudulent device to obtain relief under Section 60 of the act has been committed and probable cause to believe that the person committed it.
- ❖ The agent has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest.

(Note: The arrest powers and authority to carry a firearm granted to agents of the DHHS Office of Inspector General are similar to provisions in place for motor carrier officers and security personnel employed by the state to protect certain state-owned or leased property or facilities (e.g., the Capitol building, state office buildings, etc.). However, the arrest powers granted to motor carrier officers and state security personnel are granted by the director of the Michigan State Police and, in the case of the state security personnel, firearms may only be carried while on duty.)

Senate Bill 385 amends the Michigan Penal Code to exempt the agents of the DHHS Office of Inspector General from various weapons-related prohibitions (MCL 750.231). The prohibitions to which the exemptions would apply include prohibitions on possessing a

machine gun, silencer, blackjack, short-barreled rifle or shot gun, self-defense sprays, switchblades, and concealed weapons (other than concealed pistols) and prohibitions on transporting or possessing a loaded firearm in a vehicle (includes boats and aircraft) or in a vehicle designed for land travel.

FISCAL IMPACT:

Senate Bill 384 - The Department of Health and Human Services estimates that the cost of equipping and training up to eight agents within the Office of Inspector General for the implementation of the bill would be approximately \$300,000. These start-up costs would include a custom training program provided by the Department of State Police, as well as any necessary firearms and equipment. These additional costs are anticipated to be funded by existing department resources. The bill would have no fiscal impact on local units of government.

Senate Bill 385 – The bill would have no fiscal impact on the state of Michigan or local units of government.

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