

AMENDED IN SENATE MAY 10, 2011

**SENATE BILL**

**No. 139**

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**Introduced by Senator Alquist**

January 31, 2011

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An act to ~~amend Section 6126 of, and to add Section 5040 to, add Sections 5040 and 6134 to~~ the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 139, as amended, Alquist. Corrections: Inspector General.

Existing law establishes the office of the Inspector General, and charges the Inspector General with various duties and responsibilities, including conducting audits of, and reviewing the policies and procedures of, the Department of Corrections and Rehabilitation. Existing law establishes the Department of Corrections and Rehabilitation, and charges it with various duties and responsibilities related to inmates housed in state prisons.

This bill would ~~require~~ *authorize* the Inspector General, *or its successor*, to oversee, and the Department of Corrections and Rehabilitation to oversee and conduct, periodic and random searches of employees and vendors entering the secure perimeter of a state prison under the jurisdiction of the department for contraband, and require the department to report to the Inspector General and the Legislature monthly regarding those searches, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5040 is added to the Penal Code, to read:

1 5040. (a) The Department of Corrections and Rehabilitation  
2 shall oversee and conduct periodic and random searches of  
3 employees and vendors entering the secure perimeter of a state  
4 prison under the jurisdiction of the department for contraband.  
5 These searches shall include random searches of property, personal  
6 or otherwise, brought into the prison by those individuals. The  
7 department shall provide the Inspector General with no less than  
8 24 hours' notice prior to the dates of those random searches the  
9 department plans to conduct.

10 (b) (1) The department shall provide a written report to the  
11 Legislature and the Inspector General at least monthly detailing  
12 the following:

13 (A) The names of the prisons where the searches took place.

14 (B) The dates of the searches.

15 (C) The shifts during which the searches took place.

16 (D) The number of employees searched.

17 (E) The number of vendors searched.

18 (F) The number of cell phones discovered.

19 (G) The number of items of portable computer equipment found,  
20 including, but not limited to, iPods, MP3 players, DVD players,  
21 CD players, CDs, and portable video game players.

22 (H) Tobacco products found.

23 (I) Illegal substances found, listed by type of substance.

24 (2) The report shall include a general comment section for use  
25 by the Inspector General and the department to discuss the issues  
26 they find relevant to the searches and shall include a section  
27 detailing the actions taken as a result of the discovery of contraband  
28 possessed by an employee or vendor and the results of any  
29 disciplinary process resulting from the discovery of contraband.

30 (c) The reports to be submitted pursuant to subdivision (b) shall  
31 be submitted in compliance with Section 9795 of the Government  
32 Code.

33 *SEC. 2. Section 6134 is added to the Penal Code, to read:*

34 *6134. The Inspector General, or its successor, may oversee,*  
35 *at a minimum, the department's search of one staff shift per year*  
36 *at each adult institution, in order to ensure the integrity of the*  
37 *process and of the searches, and the accuracy of the reports*  
38 *submitted pursuant to Section 5040. Nothing in this paragraph*  
39 *shall be interpreted to allow the Inspector General to direct the*  
40 *department regarding when the random searches shall take place,*

1 *to allow the Inspector General to direct the department regarding*  
2 *how the random searches shall be carried out, or as requiring the*  
3 *Inspector General's approval prior to the department conducting*  
4 *the random searches.*

5 SEC. 2. Section 6126 of the Penal Code is amended to read:

6 ~~6126. (a) (1) The Inspector General shall review departmental~~  
7 ~~policy and procedures, conduct audits of investigatory practices~~  
8 ~~and other audits, be responsible for contemporaneous oversight of~~  
9 ~~internal affairs investigations and the disciplinary process, and~~  
10 ~~conduct investigations of the Department of Corrections and~~  
11 ~~Rehabilitation, as requested by either the Secretary of the~~  
12 ~~Department of Corrections and Rehabilitation or a Member of the~~  
13 ~~Legislature, pursuant to the approval of the Inspector General~~  
14 ~~under policies to be developed by the Inspector General. The~~  
15 ~~Inspector General may, under policies developed by the Inspector~~  
16 ~~General, initiate an investigation or an audit on his or her own~~  
17 ~~accord.~~

18 ~~(2) The Inspector General shall audit each warden of an~~  
19 ~~institution one year after his or her appointment, and shall audit~~  
20 ~~each correctional institution at least once every four years. Each~~  
21 ~~audit of a warden shall include, but not be limited to, issues relating~~  
22 ~~to personnel, training, investigations, and financial matters. Each~~  
23 ~~four-year audit shall include an assessment of the maintenance of~~  
24 ~~the facility managed by the warden. The audit report shall include~~  
25 ~~all significant findings of the Inspector General's assessment of~~  
26 ~~facility maintenance. These audit reports shall be provided to the~~  
27 ~~Legislature and shall be made public. The requirements of this~~  
28 ~~paragraph shall be phased in by the Inspector General so that they~~  
29 ~~are fully met by July 1, 2009.~~

30 ~~(3) The Inspector General shall oversee, at a minimum, the~~  
31 ~~department's search of one staff shift per year at each adult~~  
32 ~~institution, in order to ensure the integrity of the process and of~~  
33 ~~the searches, and the accuracy of the reports submitted pursuant~~  
34 ~~to Section 5040. Nothing in this paragraph shall be interpreted to~~  
35 ~~allow the Inspector General to direct the department regarding~~  
36 ~~when the random searches shall take place, to allow the Inspector~~  
37 ~~General to direct the department regarding how the random~~  
38 ~~searches shall be carried out, or as requiring the Inspector General's~~  
39 ~~approval prior to the department conducting the random searches.~~

1 (b) Upon completion of an investigation or audit, the Inspector  
2 General shall provide a response to the requester.

3 (e) The Inspector General shall, during the course of an  
4 investigatory audit, identify areas of full and partial compliance,  
5 or noncompliance, with departmental investigatory policies and  
6 procedures, specify deficiencies in the completion and  
7 documentation of investigatory processes, and recommend  
8 corrective actions, including, but not limited to, additional training  
9 with respect to investigative policies, additional policies, or changes  
10 in policy, as well as any other findings or recommendations that  
11 the Inspector General deems appropriate.

12 (d) The Inspector General, pursuant to Section 6126.6, shall  
13 review the Governor's candidates for appointment to serve as  
14 warden for the state's adult correctional institutions and as  
15 superintendents for the state's juvenile facilities.

16 (e) The Inspector General shall, in consultation with the  
17 Department of Finance, develop a methodology for producing a  
18 workload budget to be used for annually adjusting the budget of  
19 the office of the Inspector General, beginning with the budget for  
20 the 2005=06 fiscal year.