

AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 490

**Introduced by Senator Hancock
(Coauthor: Senator Anderson)**

February 17, 2011

An act to amend Sections 830.2, 830.5, 830.11, 6125, 6126.2, 6126.3, 6126.4, 6126.5, 6127.3, 6127.4, 6131, 6132, and 6140 of, to amend the heading of Chapter 8.2 (commencing with Section 6125) of Title 7 of Part 3 of, to repeal Sections 6051, 6126.1, 6126.6, 6127.1, 6128, 6129, and 6133 of, and to repeal and add Section 6126 of, the Penal Code; *An act to amend Sections 830.2, 830.5, 830.11, 6126, 6126.2, 6127.3, 6127.4, 6131, and 6132 of, and to repeal Sections 6051 and 6126.1 of, the Penal Code*, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 490, as amended, Hancock. Corrections: Office of the ~~Independent Correctional Oversight~~. *Inspector General*.

(1) Existing law creates the independent Office of the Inspector General and provides that it is not a subdivision of any other government entity. The Inspector General and certain other employees of the office are peace officers provided that the primary duty of these peace officers is conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, and the Board of Parole Hearings.

This bill would remove the Inspector General and the other employees from peace officer status. The bill ~~would eliminate the Office of the Inspector General and replace it with its successor the Office of Independent Correctional Oversight and make conforming changes. The bill would require the Governor to appoint a director for the office, as specified, and would authorize the director~~ *Inspector General* and certain other employees to exercise the powers of arrest and serving warrants, as provided.

(2) Existing law requires the Inspector General to, among other things, review departmental policy and procedures, conduct audits of investigatory practices and other audits, be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process, and conduct investigations of the department, and audit each warden of an institution one year after his or her appointment and each correctional institution at least once every 4 years. Existing law establishes within the Office of the Inspector General a Bureau of Independent Review (BIR). Existing law requires the Inspector General to evaluate and determine the qualifications of each candidate for warden or superintendent, as specified.

~~This bill would continue the purpose and duties of the BIR through the Office of Independent Correctional Oversight and require the Office of Independent Correctional Oversight to perform the function of evaluating candidates for warden or superintendent, as specified. The bill would authorize the office, pursuant to adoption of regulations and procedures, to conduct oversight reviews pertaining to specified significant correctional issues, including, among others, employee use of force, inmate-patient health care delivery, and security procedures. The bill would require the office to conduct an inspection program to periodically review delivery of medical care at each state prison.~~

~~(3) Existing law makes it a misdemeanor for certain persons that have assisted the Inspector General in the course of any audit or investigation or that have been furnished a draft copy of any report for comment or review to divulge or make known in any manner not expressly permitted by law any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public.~~

This bill would delete the reference to any audit or investigation and instead make the misdemeanor applicable to certain persons who have assisted the director in the course of his or her work. Because the bill

would expand the scope of a crime, it would impose a state-mandated local program.

~~(4) Existing law requires the Inspector General, upon receiving a complaint of retaliation from an employee against a member of management at the department, to commence an inquiry into the complaint and conduct a formal investigation where a legally cognizable cause of action is presented, as provided.~~

~~The bill would delete those provisions:~~

~~*This bill would remove the requirement that the Inspector General review departmental policy and procedures, conduct audits of investigatory practices and other audits, and conduct investigations of the department, and instead provide that the Inspector General shall be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the department pursuant to provisions specifying the responsibilities of the Bureau of Independent Review. The bill would remove the requirement of the Inspector General to audit wardens. The bill would require the Inspector General to conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison.*~~

~~The bill would also delete obsolete provisions and make conforming changes.~~

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: *yes-no*.

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

1 SECTION 1. Section 830.2 of the Penal Code is amended to
2 read:

3 830.2. The following persons are peace officers whose authority
4 extends to any place in the state:

5 (a) Any member of the Department of the California Highway
6 Patrol including those members designated under subdivision (a)
7 of Section 2250.1 of the Vehicle Code, provided that the primary
8 duty of the peace officer is the enforcement of any law relating to

1 the use or operation of vehicles upon the highways, or laws
2 pertaining to the provision of police services for the protection of
3 state officers, state properties, and the occupants of state properties,
4 or both, as set forth in the Vehicle Code and Government Code.

5 (b) A member of the University of California Police Department
6 appointed pursuant to Section 92600 of the Education Code,
7 provided that the primary duty of the peace officer shall be the
8 enforcement of the law within the area specified in Section 92600
9 of the Education Code.

10 (c) A member of the California State University Police
11 Departments appointed pursuant to Section 89560 of the Education
12 Code, provided that the primary duty of the peace officer shall be
13 the enforcement of the law within the area specified in Section
14 89560 of the Education Code.

15 (d) (1) Any member of the Office of Correctional Safety of the
16 Department of Corrections and Rehabilitation, provided that the
17 primary duties of the peace officer shall be the investigation or
18 apprehension of inmates, wards, parolees, parole violators, or
19 escapees from state institutions, the transportation of those persons,
20 the investigation of any violation of criminal law discovered while
21 performing the usual and authorized duties of employment, and
22 the coordination of those activities with other criminal justice
23 agencies.

24 (2) Any member of the Office of Internal Affairs of the
25 Department of Corrections and Rehabilitation, provided that the
26 primary duties shall be criminal investigations of Department of
27 Corrections and Rehabilitation personnel and the coordination of
28 those activities with other criminal justice agencies. For purposes
29 of this subdivision, the member of the Office of Internal Affairs
30 shall possess certification from the Commission on Peace Officer
31 Standards and Training for investigators, or have completed
32 training pursuant to Section 6126.1 of the Penal Code.

33 (e) Employees of the Department of Fish and Game designated
34 by the director, provided that the primary duty of those peace
35 officers shall be the enforcement of the law as set forth in Section
36 856 of the Fish and Game Code.

37 (f) Employees of the Department of Parks and Recreation
38 designated by the director pursuant to Section 5008 of the Public
39 Resources Code, provided that the primary duty of the peace officer

1 shall be the enforcement of the law as set forth in Section 5008 of
2 the Public Resources Code.

3 (g) The Director of Forestry and Fire Protection and employees
4 or classes of employees of the Department of Forestry and Fire
5 Protection designated by the director pursuant to Section 4156 of
6 the Public Resources Code, provided that the primary duty of the
7 peace officer shall be the enforcement of the law as that duty is
8 set forth in Section 4156 of the Public Resources Code.

9 (h) Persons employed by the Department of Alcoholic Beverage
10 Control for the enforcement of Division 9 (commencing with
11 Section 23000) of the Business and Professions Code and
12 designated by the Director of Alcoholic Beverage Control, provided
13 that the primary duty of any of these peace officers shall be the
14 enforcement of the laws relating to alcoholic beverages, as that
15 duty is set forth in Section 25755 of the Business and Professions
16 Code.

17 (i) Marshals and police appointed by the Board of Directors of
18 the California Exposition and State Fair pursuant to Section 3332
19 of the Food and Agricultural Code, provided that the primary duty
20 of the peace officers shall be the enforcement of the law as
21 prescribed in that section.

22 SEC. 2. Section 830.5 of the Penal Code is amended to read:

23 830.5. The following persons are peace officers whose authority
24 extends to any place in the state while engaged in the performance
25 of the duties of their respective employment and for the purpose
26 of carrying out the primary function of their employment or as
27 required under Sections 8597, 8598, and 8617 of the Government
28 Code. Except as specified in this section, these peace officers may
29 carry firearms only if authorized and under those terms and
30 conditions specified by their employing agency:

31 (a) A parole officer of the Department of Corrections or the
32 Department of the Youth Authority, probation officer, deputy
33 probation officer, or a board coordinating parole agent employed
34 by the Youthful Offender Parole Board. Except as otherwise
35 provided in this subdivision, the authority of these parole or
36 probation officers shall extend only as follows:

37 (1) To conditions of parole or of probation by any person in this
38 state on parole or probation.

39 (2) To the escape of any inmate or ward from a state or local
40 institution.

1 (3) To the transportation of persons on parole or probation.

2 (4) To violations of any penal provisions of law which are
3 discovered while performing the usual or authorized duties of his
4 or her employment.

5 (5) To the rendering of mutual aid to any other law enforcement
6 agency.

7 For the purposes of this subdivision, “parole agent” shall have
8 the same meaning as parole officer of the Department of
9 Corrections or of the Department of the Youth Authority.

10 Any parole officer of the Department of Corrections, the
11 Department of the Youth Authority, or the Youthful Offender
12 Parole Board is authorized to carry firearms, but only as determined
13 by the director on a case-by-case or unit-by-unit basis and only
14 under those terms and conditions specified by the director or
15 chairperson. The Department of the Youth Authority shall develop
16 a policy for arming peace officers of the Department of the Youth
17 Authority who comprise “high-risk transportation details” or
18 “high-risk escape details” no later than June 30, 1995. This policy
19 shall be implemented no later than December 31, 1995.

20 The Department of the Youth Authority shall train and arm those
21 peace officers who comprise tactical teams at each facility for use
22 during “high-risk escape details.”

23 (b) A correctional officer employed by the Department of
24 Corrections or any employee of the Department of the Youth
25 Authority having custody of wards or any employee of the
26 Department of Corrections designated by the Director of
27 Corrections or any correctional counselor series employee of the
28 Department of Corrections or any medical technical assistant series
29 employee designated by the Director of Corrections or designated
30 by the Director of Corrections and employed by the State
31 Department of Mental Health or employee of the Board of Prison
32 Terms designated by the Secretary of the Youth and Adult
33 Correctional Agency or employee of the Department of the Youth
34 Authority designated by the Director of the Youth Authority or
35 any superintendent, supervisor, or employee having custodial
36 responsibilities in an institution operated by a probation
37 department, or any transportation officer of a probation department.

38 (c) The following persons may carry a firearm while not on
39 duty: a parole officer of the Department of Corrections or the
40 Department of the Youth Authority, a correctional officer or

1 correctional counselor employed by the Department of Corrections
2 or any employee of the Department of the Youth Authority having
3 custody of wards or any employee of the Department of Corrections
4 designated by the Director of Corrections. A parole officer of the
5 Youthful Offender Parole Board may carry a firearm while not on
6 duty only when so authorized by the chairperson of the board and
7 only under the terms and conditions specified by the chairperson.
8 Nothing in this section shall be interpreted to require licensure
9 pursuant to Section 25400. The director or chairperson may deny,
10 suspend, or revoke for good cause a person's right to carry a
11 firearm under this subdivision. That person shall, upon request,
12 receive a hearing, as provided for in the negotiated grievance
13 procedure between the exclusive employee representative and the
14 Department of Corrections, the Department of the Youth Authority,
15 or the Youthful Offender Parole Board, to review the director's or
16 the chairperson's decision.

17 (d) Persons permitted to carry firearms pursuant to this section,
18 either on or off duty, shall meet the training requirements of Section
19 832 and shall qualify with the firearm at least quarterly. It is the
20 responsibility of the individual officer or designee to maintain his
21 or her eligibility to carry concealable firearms off duty. Failure to
22 maintain quarterly qualifications by an officer or designee with
23 any concealable firearms carried off duty shall constitute good
24 cause to suspend or revoke that person's right to carry firearms
25 off duty.

26 (e) The Department of Corrections shall allow reasonable access
27 to its ranges for officers and designees of either department to
28 qualify to carry concealable firearms off duty. The time spent on
29 the range for purposes of meeting the qualification requirements
30 shall be the person's own time during the person's off-duty hours.

31 (f) The Director of Corrections shall promulgate regulations
32 consistent with this section.

33 (g) "High-risk transportation details" and "high-risk escape
34 details" as used in this section shall be determined by the Director
35 of the Youth Authority, or his or her designee. The director, or his
36 or her designee, shall consider at least the following in determining
37 "high-risk transportation details" and "high-risk escape details":
38 protection of the public, protection of officers, flight risk, and
39 violence potential of the wards.

1 (h) “Transportation detail” as used in this section shall include
2 transportation of wards outside the facility, including, but not
3 limited to, court appearances, medical trips, and interfacility
4 transfers.

5 SEC. 3. Section 830.11 of the Penal Code is amended to read:

6 830.11. (a) The following persons are not peace officers but
7 may exercise the powers of arrest of a peace officer as specified
8 in Section 836 and the power to serve warrants as specified in
9 Sections 1523 and 1530 during the course and within the scope of
10 their employment, if they receive a course in the exercise of those
11 powers pursuant to Section 832. The authority and powers of the
12 persons designated under this section shall extend to any place in
13 the state:

14 (1) Persons employed by the Department of Financial
15 Institutions designated by the Commissioner of Financial
16 Institutions, provided that the primary duty of these persons shall
17 be the enforcement of, and investigations relating to, the provisions
18 of law administered by the Commissioner of Financial Institutions.

19 (2) Persons employed by the Department of Real Estate
20 designated by the Real Estate Commissioner, provided that the
21 primary duty of these persons shall be the enforcement of the laws
22 set forth in Part 1 (commencing with Section 10000) and Part 2
23 (commencing with Section 11000) of Division 4 of the Business
24 and Professions Code. The Real Estate Commissioner may
25 designate persons under this section, who at the time of their
26 designation, are assigned to the Special Investigations Unit,
27 internally known as the Crisis Response Team.

28 (3) Persons employed by the State Lands Commission
29 designated by the executive officer, provided that the primary duty
30 of these persons shall be the enforcement of the law relating to the
31 duties of the State Lands Commission.

32 (4) Persons employed as investigators of the Investigations
33 Bureau of the Department of Insurance, who are designated by the
34 Chief of the Investigations Bureau, provided that the primary duty
35 of these persons shall be the enforcement of the Insurance Code
36 and other laws relating to persons and businesses, licensed and
37 unlicensed by the Department of Insurance, who are engaged in
38 the business of insurance.

39 (5) Persons employed as investigators and investigator
40 supervisors of the Consumer Services Division or the Rail Safety

1 and Carrier Division of the Public Utilities Commission who are
2 designated by the commission’s executive director and approved
3 by the commission, provided that the primary duty of these persons
4 shall be the enforcement of the law as that duty is set forth in
5 Section 308.5 of the Public Utilities Code.

6 (6) (A) Persons employed by the State Board of Equalization,
7 Investigations Division, who are designated by the board’s
8 executive director, provided that the primary duty of these persons
9 shall be the enforcement of laws administered by the State Board
10 of Equalization.

11 (B) Persons designated pursuant to this paragraph are not entitled
12 to peace officer retirement benefits.

13 (7) Persons employed by the Department of Food and
14 Agriculture and designated by the Secretary of Food and
15 Agriculture as investigators, investigator supervisors, and
16 investigator managers, provided that the primary duty of these
17 persons shall be enforcement of, and investigations relating to, the
18 Food and Agricultural Code or Division 5 (commencing with
19 Section 12001) of the Business and Professions Code.

20 ~~The Director of the Office of Independent Correctional~~
21 ~~Oversight~~ *Inspector General* and those employees of the office
22 *Office of the Inspector General* as designated by the ~~director~~
23 *Inspector General*, provided that the primary duty of those persons
24 shall be the enforcement of the law relating to the duties of the
25 ~~Office of Independent Correctional Oversight~~ *the Inspector*
26 *General*.

27 (b) Notwithstanding any other provision of law, persons
28 designated pursuant to this section may not carry firearms.

29 (c) Persons designated pursuant to this section shall be included
30 as “peace officers of the state” under paragraph (2) of subdivision
31 (c) of Section 11105 for the purpose of receiving state summary
32 criminal history information and shall be furnished that information
33 on the same basis as peace officers of the state designated in
34 paragraph (2) of subdivision (c) of Section 11105.

35 SEC. 4. Section 6051 of the Penal Code is repealed.

36 ~~SEC. 5. The heading of Chapter 8.2 (commencing with Section~~
37 ~~6125) of Title 7 of Part 3 of the Penal Code is amended to read:~~

38

39 ~~CHAPTER 8.2. OFFICE OF INDEPENDENT CORRECTIONAL~~
40 ~~OVERSIGHT~~

1 SEC. 6. Section 6125 of the Penal Code is amended to read:

2 6125. (a) There is hereby created the Office of Independent
3 Correctional Oversight which shall not be a subdivision of any
4 other governmental entity.

5 (b) The purpose of the Office of Independent Correctional
6 Oversight shall be to perform its functions as prescribed by law
7 in a manner that promotes management, fiscal and program
8 competency, and accountability in the state correctional system in
9 furtherance of public safety and evidence-based correctional
10 practices.

11 (c) The Governor shall appoint, subject to confirmation by the
12 Senate, a director for the office, who shall hold office for a
13 four-year term. The director may not be removed from office during
14 that term, except for good cause.

15 (d) The director shall be deemed to be a department head for
16 the purpose of Section 11189 of the Government Code in
17 connection with any work conducted pursuant to this chapter.

18 (e) For purposes of this chapter, "director" means the Director
19 of the Office of Independent Correctional Oversight.

20 SEC. 7. Section 6126 of the Penal Code is repealed.

21 SEC. 8. Section 6126 is added to the Penal Code, to read:

22 6126. (a) The Legislature finds and declares that the purpose
23 and duties of the Bureau of Independent Review, previously
24 existing within the Office of the Inspector General and repealed
25 by this act, shall continue through the Office of Independent
26 Correctional Oversight as created by Section 6125.

27 (b) The Office of Independent Correctional Oversight shall
28 perform the following duties:

29 (1) Contemporaneous public oversight of the Department of
30 Corrections and Rehabilitation investigations conducted by the
31 Department of Corrections and Rehabilitation's Office of Internal
32 Affairs.

33 (2) Advising the public regarding the adequacy of each
34 investigation, and whether discipline of the subject of the
35 investigation is warranted.

36 (3) Issuing regular reports, no less than annually, to the Governor
37 and the Legislature summarizing its recommendations concerning
38 its oversight of the Department of Corrections and Rehabilitation
39 allegations of internal misconduct and use of force.

1 ~~(4) Issuing regular reports, no less than semiannually,~~
2 ~~summarizing its oversight of Office of Internal Affairs~~
3 ~~investigations pursuant to paragraphs (1) and (2). The reports shall~~
4 ~~include, but not be limited to, the following:~~

5 ~~(A) Data on the number, type, and disposition of complaints~~
6 ~~made against correctional officers and staff.~~

7 ~~(B) A synopsis of each matter reviewed by the office.~~

8 ~~(C) An assessment of the quality of the investigation, the~~
9 ~~appropriateness of any disciplinary charges, the office's~~
10 ~~recommendations regarding the disposition in the case and when~~
11 ~~founded, the level of discipline afforded, and the degree to which~~
12 ~~the agency's authorities agreed with the office's recommendations~~
13 ~~regarding disposition and level of discipline.~~

14 ~~(D) The report of any settlement and whether the office~~
15 ~~concurred with the settlement.~~

16 ~~(E) The extent to which any discipline was modified after~~
17 ~~imposition.~~

18 ~~(F) The reports shall be in a form that does not identify the~~
19 ~~agency employees involved in the alleged misconduct.~~

20 ~~(G) The reports shall be posted on the office's Internet Web site~~
21 ~~and otherwise made available to the public upon their release to~~
22 ~~the Governor and the Legislature.~~

23 ~~(H) A report pursuant to this subdivision shall be submitted in~~
24 ~~compliance with Section 9795 of the Government Code.~~

25 ~~(5) Reviewing the qualifications of a candidate for warden or~~
26 ~~superintendent as follows:~~

27 ~~(A) Prior to filling a vacancy for warden by appointment~~
28 ~~pursuant to Section 6050, or superintendent pursuant to Section~~
29 ~~1049 of the Welfare and Institutions Code, the Governor shall first~~
30 ~~submit to the Office of Independent Correctional Oversight the~~
31 ~~names of candidates for the position of warden or superintendent~~
32 ~~for review of their qualifications.~~

33 ~~(B) Upon receipt of the names of those candidates and their~~
34 ~~completed personal data questionnaires, the director shall employ~~
35 ~~appropriate confidential procedures to evaluate and determine the~~
36 ~~qualifications of each candidate with regard to his or her ability~~
37 ~~to discharge the duties of the office to which the appointment or~~
38 ~~nomination is made.~~

39 ~~(C) Within 45 days of submission by the Governor of those~~
40 ~~names, the director shall advise, in confidence to the Governor,~~

1 his or her recommendation whether the candidate is exceptionally
2 well qualified, well qualified, qualified, or not qualified and the
3 reasons therefor, and may report, in confidence, any other
4 information that the director deems pertinent to the qualifications
5 of the candidate.

6 (D) In reviewing the qualifications of a candidate for the position
7 of warden or superintendent, the director shall consider, among
8 other appropriate factors, the candidate's experience in effectively
9 managing correctional facilities and inmate or ward populations;
10 ability to deal effectively with employees, detained persons, and
11 other interested persons in addressing management, confinement,
12 and safety issues in an effective, fair, and professional manner;
13 and knowledge of correctional best practices.

14 (E) The Office of Independent Correctional Oversight shall
15 establish and promulgate rules and procedures to implement this
16 paragraph no later than December 31, 2012. The director shall
17 establish and adopt rules and procedures regarding the review of
18 the qualifications of candidates for the position of warden or
19 superintendent. Those rules, regulations, and procedures shall
20 establish appropriate, confidential methods for disclosing to the
21 candidate the subject matter of substantial and credible adverse
22 allegations received regarding the candidate's reputation and
23 integrity, which, unless rebutted, would be determinative of the
24 candidate's unsuitability for appointment. No rule or procedure
25 shall be adopted that permits the disclosure to the candidate of
26 information from which the candidate may infer the source, and
27 no information shall either be disclosed to the candidate or be
28 obtainable by any process that would jeopardize the confidentiality
29 of communications from persons whose opinions have been sought
30 on the candidate's qualifications.

31 (F) All communications, written, verbal, or otherwise, of and
32 to the Governor, the Governor's authorized agents or employees,
33 including, but not limited to, the Governor's Legal Affairs
34 Secretary and Appointments Secretary, or of and to the director
35 in furtherance of the purposes of this section are absolutely
36 privileged from disclosure and confidential, and any
37 communication made in the discretion of the Governor or the
38 director with a candidate or person providing information in
39 furtherance of the purposes of this section shall not constitute a
40 waiver of the privilege or a breach of confidentiality.

1 ~~(G) When the Governor has appointed a person to the position~~
2 ~~of warden or superintendent who has been found not qualified by~~
3 ~~the director, the director shall make public that finding, after due~~
4 ~~notice to the appointee of his or her intention to do so. That notice~~
5 ~~and disclosure shall not constitute a waiver of privilege or breach~~
6 ~~of confidentiality with respect to communications of or to the~~
7 ~~director concerning the qualifications of the appointee.~~

8 ~~(H) No person or entity shall be liable for any injury caused by~~
9 ~~any act or failure to act, be it negligent, intentional, discretionary,~~
10 ~~or otherwise, in the furtherance of the purposes of this section,~~
11 ~~including, but not limited to, providing or receiving any~~
12 ~~information, making any recommendations, and giving any reasons~~
13 ~~therefor.~~

14 ~~(I) As used in this section, “Office of Independent Correctional~~
15 ~~Oversight” or “office” includes employees and agents of the Office~~
16 ~~of Independent Correctional Oversight and the director.~~

17 ~~(J) At any time prior to the receipt of the review from the Office~~
18 ~~of Independent Correctional Oversight specified in subdivision~~
19 ~~(b), the Governor may withdraw the name of any person submitted~~
20 ~~to the Office of Independent Correctional Oversight for evaluation~~
21 ~~pursuant to this section.~~

22 ~~(K) No candidate for the position of warden or superintendent~~
23 ~~may be appointed until the director has advised the Governor~~
24 ~~pursuant to this section, or until 45 days have elapsed after~~
25 ~~submission of the candidate’s name to the Office of Independent~~
26 ~~Correctional Oversight, whichever occurs earlier. The requirement~~
27 ~~of this subparagraph shall not apply to any vacancy in the position~~
28 ~~of warden or superintendent occurring within the days preceding~~
29 ~~the expiration of the Governor’s term of office; provided, however,~~
30 ~~that, with respect to those vacancies, the Governor shall be required~~
31 ~~to submit any candidate’s name to the Office of Independent~~
32 ~~Correctional Oversight in order to provide the office an~~
33 ~~opportunity, if time permits, to review and make a report.~~

34 ~~(L) Nothing in this section shall be construed as imposing an~~
35 ~~additional requirement for an appointment or nomination to the~~
36 ~~position of warden or superintendent, nor shall anything in this~~
37 ~~section be construed as adding any additional qualifications for~~
38 ~~the position of warden or superintendent.~~

1 ~~(6) Conducting an objective, clinically appropriate, and~~
 2 ~~metric-oriented medical inspection program to periodically review~~
 3 ~~delivery of medical care at each state prison.~~

4 ~~(e) Subject to subdivision (d), the Office of Independent~~
 5 ~~Correctional Oversight may conduct oversight reviews pertaining~~
 6 ~~to the following significant correctional issues relating to the~~
 7 ~~Department of Corrections and Rehabilitation:~~

8 ~~(1) Security procedures, including contraband interdiction.~~

9 ~~(2) Inmate, ward, and parolee administrative appeals and~~
 10 ~~grievances.~~

11 ~~(3) Employee use of force.~~

12 ~~(4) Prison Rape Elimination Act procedures.~~

13 ~~(5) Inmate-patient health care delivery.~~

14 ~~(d) Oversight reviews conducted pursuant to subdivision (e)~~
 15 ~~may be conducted only pursuant to the adoption of regulations and~~
 16 ~~procedures for determining how the issues before the office shall~~
 17 ~~be considered and selected.~~

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

19 ~~6126. (a) (1) The Inspector General shall review departmental~~
 20 ~~policy and procedures, conduct audits of investigatory practices~~
 21 ~~and other audits, be responsible for contemporaneous oversight of~~
 22 ~~internal affairs investigations and the disciplinary process of the~~
 23 ~~Department of Corrections and Rehabilitation pursuant to Section~~
 24 ~~6133, and conduct investigations of the Department of Corrections~~
 25 ~~and Rehabilitation, as requested by either the Secretary of the~~
 26 ~~Department of Corrections and Rehabilitation or a Member of the~~
 27 ~~Legislature, pursuant to the approval of the Inspector General~~
 28 ~~under policies to be developed by the Inspector General. The~~
 29 ~~Inspector General may, under policies developed by the Inspector~~
 30 ~~General, initiate an investigation or an audit on his or her own~~
 31 ~~accord.~~

32 *(b) When requested by the Governor, the Senate Committee on*
 33 *Rules, or the Speaker of the Assembly, the Inspector General shall*
 34 *review policies, practices, and procedures of the department. The*
 35 *Inspector General, under policies developed by the Inspector*
 36 *General, may recommend that the Governor, the Senate Committee*
 37 *on Rules, or the Speaker of the Assembly request a review of a*
 38 *specific departmental policy, practice, or procedure which raises*
 39 *a significant correctional issue relevant to the effectiveness of the*
 40 *department.*

1 ~~(2) The Inspector General shall audit each warden of an~~
2 ~~institution one year after his or her appointment, and shall audit~~
3 ~~each correctional institution at least once every four years. Each~~
4 ~~audit of a warden shall include, but not be limited to, issues relating~~
5 ~~to personnel, training, investigations, and financial matters. Each~~
6 ~~four-year audit shall include an assessment of the maintenance of~~
7 ~~the facility managed by the warden. The audit report shall include~~
8 ~~all significant findings of the Inspector General's assessment of~~
9 ~~facility maintenance. These audit reports shall be provided to the~~
10 ~~Legislature and shall be made public. The requirements of this~~
11 ~~paragraph shall be phased in by the Inspector General so that they~~
12 ~~are fully met by July 1, 2009.~~

13 ~~(b)~~

14 ~~(c) Upon completion of an investigation or audit a review, the~~
15 ~~Inspector General shall provide a response to the requester.~~

16 ~~(e)~~

17 ~~(d) The Inspector General shall, during the course of an~~
18 ~~investigatory audit a review, identify areas of full and partial~~
19 ~~compliance, or noncompliance, with departmental investigatory~~
20 ~~policies and procedures, specify deficiencies in the completion~~
21 ~~and documentation of investigatory processes, and recommend~~
22 ~~corrective actions, including, but not limited to, additional training~~
23 ~~with respect to investigative policies, additional policies, or changes~~
24 ~~in policy, as well as any other findings or recommendations that~~
25 ~~the Inspector General deems appropriate.~~

26 ~~(d)~~

27 ~~(e) The Inspector General, pursuant to Section 6126.6, shall~~
28 ~~review the Governor's candidates for appointment to serve as~~
29 ~~warden for the state's adult correctional institutions and as~~
30 ~~superintendents for the state's juvenile facilities.~~

31 ~~(f) The Inspector General shall conduct an objective, clinically~~
32 ~~appropriate, and metric-oriented medical inspection program to~~
33 ~~periodically review delivery of medical care at each state prison.~~

34 ~~(e)~~

35 ~~(g) The Inspector General shall, in consultation with the~~
36 ~~Department of Finance, develop a methodology for producing a~~
37 ~~workload budget to be used for annually adjusting the budget of~~
38 ~~the Office of the Inspector General, beginning with the budget for~~
39 ~~the 2005-06 fiscal year.~~

1 ~~SEC. 9.~~

2 ~~SEC. 6.~~ Section 6126.1 of the Penal Code is repealed.

3 ~~SEC. 10.~~

4 ~~SEC. 7.~~ Section 6126.2 of the Penal Code is amended to read:

5 6126.2. The ~~director~~ *Inspector General* shall not hire any
6 person known to be directly or indirectly involved in an open
7 internal affairs investigation being conducted by any federal, state,
8 or local law enforcement agency or the Office of ~~Independent~~
9 ~~Correctional Oversight~~ *the Inspector General*.

10 ~~SEC. 11.~~ Section 6126.3 of the Penal Code is amended to read:

11 6126.3. (a) The ~~director~~ shall not destroy any papers or
12 memoranda used to support its work within three years after a
13 report is released.

14 (b) ~~Except as provided in subdivision (c), all books, papers,~~
15 ~~records, and correspondence of the office and its predecessor, the~~
16 ~~Office of the Inspector General, pertaining to its work are public~~
17 ~~records subject to Chapter 3.5 (commencing with Section 6250)~~
18 ~~of Division 7 of Title 1 of the Government Code and shall be filed~~
19 ~~at any of the regularly maintained offices of the Office of~~
20 ~~Independent Correctional Oversight or its predecessor, the Office~~
21 ~~of the Inspector General.~~

22 (c) ~~The following books, papers, records, and correspondence~~
23 ~~of the office and its predecessor, the Office of the Inspector~~
24 ~~General, pertaining to its work are not public records subject to~~
25 ~~Chapter 3.5 (commencing with Section 6250) of Division 7 of~~
26 ~~Title 1 of the Government Code, nor shall they be subject to~~
27 ~~discovery pursuant to any provision of Title 3 (commencing with~~
28 ~~Section 1985) of Part 4 of the Code of Civil Procedure or Chapter~~
29 ~~7 (commencing with Section 19570) of Part 2 of Division 5 of~~
30 ~~Title 2 of the Government Code in any manner.~~

31 (1) ~~All reports, papers, correspondence, memoranda, electronic~~
32 ~~communications, or other documents that are otherwise exempt~~
33 ~~from disclosure pursuant to the provisions of subdivision (d) of~~
34 ~~Section 6126.5, Section 6126.6, subdivision (i) of Section 6127.5,~~
35 ~~subdivision (d) of Section 6128, subdivision (a) of Section 6131,~~
36 ~~or all other applicable laws regarding confidentiality, including,~~
37 ~~but not limited to, the California Public Records Act, the Public~~
38 ~~Safety Officers' Procedural Bill of Rights, the Information~~
39 ~~Practices Act of 1977, the Confidentiality of Medical Information~~

1 Act of 1977, and the provisions of Section 832.7, relating to the
2 disposition notification for complaints against peace officers:

3 (2) Any papers, correspondence, memoranda, electronic
4 communications, or other documents pertaining to any work that
5 has not been completed.

6 (3) Any papers, correspondence, memoranda, electronic
7 communications, or other documents pertaining to internal
8 discussions between the director and his or her staff, or any prior
9 Inspector General and his or her staff, or between staff members
10 of the office or its predecessor, or any personal notes of the director
11 or his or her staff, or his or her predecessor the Inspector General
12 or his or her staff.

13 (4) All identifying information, and any personal papers or
14 correspondence from any person requesting assistance from the
15 office or its predecessor, except in those cases where the director
16 determines that disclosure of the information is necessary in the
17 interests of justice.

18 (5) Any papers, correspondence, memoranda, electronic
19 communications, or other documents pertaining to
20 contemporaneous public oversight pursuant to Section 6133.

21 SEC. 12. Section 6126.4 of the Penal Code is amended to read:

22 6126.4. It is a misdemeanor for the director or any employee
23 or former employee of the Office of Independent Correctional
24 Oversight to divulge or make known in any manner not expressly
25 permitted by law to any person not employed by the office any
26 particulars of any record, document, or information the disclosure
27 of which is restricted by law from release to the public. This
28 prohibition is also applicable to any person or business entity that
29 is contracting with or has contracted with the office and to the
30 employees and former employees of that person or business entity
31 or the employees of any state agency or public entity that has
32 assisted the office in the course of its work or that has been
33 furnished a draft copy of any report for comment or review.

34 SEC. 13. Section 6126.5 of the Penal Code is amended to read:

35 6126.5. (a) Notwithstanding any other provision of law, the
36 Office of Independent Correctional Oversight during regular
37 business hours or at any other time determined necessary by the
38 director, shall have access to and authority to examine and
39 reproduce any and all books, accounts, reports, vouchers,
40 correspondence files, documents, and other records, and to examine

1 the bank accounts, money, or other property of the Department of
2 Corrections and Rehabilitation for any work authorized by this
3 chapter. Any officer or employee of any agency or entity having
4 these records or property in his or her possession or under his or
5 her control shall permit access to, and examination and
6 reproduction thereof consistent with the provisions of this section,
7 upon the request of any authorized representative of the office.

8 (b) For the purpose of conducting work authorized by this
9 chapter, the director or his or her authorized representative shall
10 have access to the records and property of any public or private
11 entity or person subject to review or regulation by the public
12 agency or public entity being audited, investigated, or overseen to
13 the same extent that employees or officers of that agency or public
14 entity have access. No provision of law or any memorandum of
15 understanding or any other agreement entered into between the
16 employing entity and the employee or the employee's
17 representative providing for the confidentiality or privilege of any
18 records or property shall prevent disclosure pursuant to subdivision
19 (a). Access, examination, and reproduction consistent with the
20 provisions of this section shall not result in the waiver of any
21 confidentiality or privilege regarding any records or property.

22 (c) Any officer or person who fails or refuses to permit access,
23 examination, or reproduction, as required by this section, is guilty
24 of a misdemeanor.

25 (d) The Office of Independent Correctional Oversight may
26 require any employee of the Department of Corrections and
27 Rehabilitation to be interviewed on a confidential basis concerning
28 matters within the authority of the office. Any employee requested
29 to be interviewed shall comply and shall have time afforded by
30 the appointing authority for the purpose of an interview conducted
31 pursuant to this subdivision. The director shall have the discretion
32 to redact the name or other identifying information of any person
33 interviewed from any public report issued by the Office of
34 Independent Correctional Oversight, where required by law or
35 where the failure to redact the information may hinder prosecution
36 or an action in a criminal, civil, or administrative proceeding, or
37 where the director determines that disclosure of the information
38 is not in the interests of justice. It is not the purpose of these
39 communications to address disciplinary action or grievance
40 procedures that may routinely occur. If it appears that the facts of

1 the case could lead to punitive action, the office shall be subject
2 to Sections 3303, 3307, 3307.5, 3308, 3309, and subdivisions (a)
3 to (d), inclusive, of Section 3309.5 of the Government Code as if
4 the office were the employer, except that the office shall not be
5 subject to the provisions of any memorandum of understanding or
6 other agreement entered into between the employing entity and
7 the employee or the employee's representative that is in conflict
8 with, or adds to the requirements of, Sections 3303, 3307, 3307.5,
9 3308, 3309, and subdivisions (a) to (d), inclusive, of Section 3309.5
10 of the Government Code.

11 ~~SEC. 14.~~ Section 6126.6 of the Penal Code is repealed.

12 ~~SEC. 15.~~ Section 6127.1 of the Penal Code is repealed.

13 ~~SEC. 16.~~

14 *SEC. 8.* Section 6127.3 of the Penal Code is amended to read:

15 6127.3. (a) In connection with duties authorized pursuant to
16 this chapter, the Office of ~~Independent Correctional Oversight~~ *the*
17 *Inspector General* may do any of the following:

18 (1) Administer oaths.

19 (2) Certify to all official acts.

20 (3) Issue subpoenas for the attendance of witnesses and the
21 production of papers, books, accounts, or documents in any
22 medium, or for the making of oral or written sworn statements, in
23 any ~~investigative~~ interview conducted pursuant to duties authorized
24 by this chapter.

25 (b) Any subpoena issued under this chapter extends as process
26 to all parts of the state and may be served by any person authorized
27 to serve process of courts of record or by any person designated
28 for that purpose by the office. The person serving this process may
29 receive compensation as is allowed by the office, not to exceed
30 the fees prescribed by law for similar service.

31 ~~SEC. 17.~~

32 *SEC. 9.* Section 6127.4 of the Penal Code is amended to read:

33 6127.4. (a) The superior court in the county in which any
34 interview is held under the direction of the ~~Office of Independent~~
35 *Correctional Oversight Inspector General, or his or her designee,*
36 pursuant to duties authorized by this chapter has jurisdiction to
37 compel the attendance of witnesses, the making of oral or written
38 sworn statements, and the production of papers, books, accounts,
39 and documents, as required by any subpoena issued by the office.

1 (b) If any witness refuses to attend or testify or produce any
 2 papers required by the subpoena, the ~~Office of Independent~~
 3 ~~Correctional Oversight~~ *Inspector General, or his or her designee,*
 4 may petition the superior court in the county in which the hearing
 5 is pending for an order compelling the person to attend and answer
 6 questions under penalty of perjury or produce the papers required
 7 by the subpoena before the person named in the subpoena. The
 8 petition shall set forth all of the following:

9 (1) That due notice of the time and place of attendance of the
 10 person or the production of the papers has been given.

11 (2) That the person has been subpoenaed in the manner
 12 prescribed in this chapter.

13 (3) That the person has failed and refused to attend or produce
 14 the papers required by subpoena before the office as named in the
 15 subpoena, or has refused to answer questions propounded to him
 16 or her in the course of the interview under penalty of perjury.

17 (c) Upon the filing of the petition, the court shall enter an order
 18 directing the person to appear before the court at a specified time
 19 and place and then and there show cause why he or she has not
 20 attended, answered questions under penalty of perjury, or produced
 21 the papers as required. A copy of the order shall be served upon
 22 him or her. If it appears to the court that the subpoena was regularly
 23 issued by the ~~Office of Independent Correctional Oversight~~
 24 *Inspector General, or his or her designee,* the court shall enter an
 25 order that the person appear before the person named in the
 26 subpoena at the time and place fixed in the order and answer
 27 questions under penalty of perjury or produce the required papers.
 28 Upon failure to obey the order, the person shall be dealt with as
 29 for contempt of court.

30 ~~SEC. 18.— Section 6128 of the Penal Code is repealed.~~

31 ~~SEC. 19.— Section 6129 of the Penal Code is repealed.~~

32 ~~SEC. 20.— Section 6131 of the Penal Code is amended to read:~~

33 ~~6131.— (a) Upon the completion of any oversight review~~
 34 ~~conducted by the Office of Independent Correctional Oversight,~~
 35 ~~the office shall prepare a complete written report, which shall be~~
 36 ~~held as confidential and disclosed in confidence, along with all~~
 37 ~~underlying investigative materials the office deems appropriate,~~
 38 ~~to the Governor, the Secretary of the Department of Corrections~~
 39 ~~and Rehabilitation, and the appropriate director, chairperson, or~~
 40 ~~law enforcement agency.~~

1 ~~(b) Upon the completion of any oversight review conducted by~~
2 ~~the Office of Independent Correctional Oversight, the office shall~~
3 ~~also prepare and issue on a quarterly basis a public report that~~
4 ~~includes all oversight reviews completed in the previous quarter.~~
5 ~~The public report shall differ from the complete report in the~~
6 ~~respect that the Office of Independent Correctional Oversight shall~~
7 ~~have the discretion to redact or otherwise protect the names of~~
8 ~~individuals, specific locations, or other facts that, if not redacted,~~
9 ~~might hinder any related prosecution, or where disclosure of the~~
10 ~~information is otherwise prohibited by law, and to decline to~~
11 ~~produce any of the underlying materials. In a case where allegations~~
12 ~~were deemed to be unfounded, all applicable identifying~~
13 ~~information shall be redacted. The public report shall be made~~
14 ~~available to the public upon request and on a quarterly basis as~~
15 ~~follows:~~

16 ~~(1) In those cases where a report is referred only for disciplinary~~
17 ~~action before the State Personnel Board or for other administrative~~
18 ~~proceedings, the employing entity shall, within 10 days of receipt~~
19 ~~of the State Personnel Board's order rendered in other~~
20 ~~administrative proceedings, provide the Office of Independent~~
21 ~~Correctional Oversight with a copy of the order. The office shall~~
22 ~~attach the order to the public report on his or her Internet Web~~
23 ~~site and provide copies of the report and order to the Legislature,~~
24 ~~as well as to any complaining employee and any employee who~~
25 ~~was the subject of the review.~~

26 ~~(2) In those cases where the employing entity and the employee~~
27 ~~against whom disciplinary action has been taken enter into a~~
28 ~~settlement agreement concerning the disciplinary action, the~~
29 ~~employing entity shall, within 10 days of the settlement agreement~~
30 ~~becoming final, notify the Office of Independent Correctional~~
31 ~~Oversight in writing of that fact and shall describe what disciplinary~~
32 ~~action, if any, was ultimately imposed on the employee. The Office~~
33 ~~of Independent Correctional Oversight shall include the settlement~~
34 ~~information in the public report on its Internet Web site and provide~~
35 ~~copies of the report to the Legislature, as well as to any~~
36 ~~complaining employee and any employee who was the subject of~~
37 ~~the review.~~

38 ~~(3) In those cases where the employing entity declines to pursue~~
39 ~~disciplinary action against an employee, the employing entity shall,~~
40 ~~within 10 days of its decision, notify the Office of Independent~~

1 ~~Correctional Oversight in writing of its decision not to pursue~~
2 ~~disciplinary action, setting forth the reasons for its decision. The~~
3 ~~office shall include the decision and rationale in the public report~~
4 ~~on his or her Internet Web site and provide copies of the report to~~
5 ~~the Legislature, as well as to any complaining employee and any~~
6 ~~employee who was the subject of the review.~~

7 ~~(4) In those cases where a report has been referred for possible~~
8 ~~criminal prosecution, and the applicable local law enforcement~~
9 ~~agency or the Attorney General has decided to commence criminal~~
10 ~~proceedings against an employee, the report shall be made public~~
11 ~~at a time deemed appropriate by the Office of Independent~~
12 ~~Correctional Oversight after consultation with the local law~~
13 ~~enforcement agency or the Attorney General, but in all cases no~~
14 ~~later than when discovery has been provided to the defendant in~~
15 ~~the criminal proceedings. The office shall thereafter post the public~~
16 ~~report on its Internet Web site and provide copies of the report to~~
17 ~~the Legislature, as well as to any complaining employee and any~~
18 ~~employee who was the subject of the review.~~

19 ~~(5) In those cases where the local law enforcement agency or~~
20 ~~the Attorney General declines to commence criminal proceedings~~
21 ~~against an employee, the local law enforcement agency or the~~
22 ~~Attorney General shall, within 30 days of reaching that decision,~~
23 ~~notify the Office of Independent Correctional Oversight of that~~
24 ~~fact. The office shall include the decision in the public report on~~
25 ~~its Internet Web site and provide copies of the report to the~~
26 ~~Legislature, as well as to any complaining employee and any~~
27 ~~employee who was the subject of the review.~~

28 ~~(6) In those cases where a report has been referred for neither~~
29 ~~disciplinary action or other administrative proceedings, nor for~~
30 ~~criminal prosecution, the Office of Independent Correctional~~
31 ~~Oversight shall include the decision not to refer the matter in the~~
32 ~~public report on its Internet Web site and provide copies of the~~
33 ~~report to the Legislature, as well as to any complaining employee~~
34 ~~and any employee who was the subject of the review.~~

35 *SEC. 10. Section 6131 of the Penal Code is amended to read:*

36 6131. (a) Upon the completion of any ~~audit~~ review conducted
37 by the Inspector General, he or she shall prepare a written report,
38 which shall be disclosed, along with all underlying materials the
39 Inspector General deems appropriate, to the Governor, the
40 Secretary of the Department of Corrections and Rehabilitation,

1 the appropriate director, chairperson, or law enforcement agency,
2 and the Legislature. Copies of all those written reports shall be
3 posted on the Inspector General’s Internet Web site within 10 days
4 of being disclosed to the above-listed entities or persons.

5 (b) Upon the completion of any ~~investigation~~ *review* conducted
6 by the Inspector General, he or she shall prepare a complete written
7 report, which shall be held as confidential and disclosed in
8 confidence, along with all underlying ~~investigative~~ materials the
9 Inspector General deems appropriate, to the Governor, the
10 Secretary of the Department of Corrections and Rehabilitation,
11 and the appropriate director, chairperson, or law enforcement
12 agency.

13 (c) Upon the completion of any ~~investigation~~ *review* conducted
14 by the Inspector General, he or she shall also prepare and issue on
15 a quarterly basis a public ~~investigative~~ report that includes all
16 ~~investigations~~ *reviews* completed in the previous quarter. The
17 public ~~investigative~~ report shall differ from the complete
18 ~~investigative~~ report in the respect that the Inspector General shall
19 have the discretion to redact or otherwise protect the names of
20 individuals, specific locations, or other facts that, if not redacted,
21 might hinder prosecution related to the ~~investigation~~ *review*, or
22 where disclosure of the information is otherwise prohibited by
23 law, and to decline to produce any of the underlying ~~investigative~~
24 materials. In a case where allegations were deemed to be
25 unfounded, all applicable identifying information shall be redacted.
26 The public ~~investigative~~ report shall be made available to the public
27 upon request and on a quarterly basis as follows:

28 (1) In those cases where ~~an investigation~~ *a review* is referred
29 only for disciplinary action before the State Personnel Board or
30 for other administrative proceedings, the employing entity shall,
31 within 10 days of receipt of the State Personnel Board’s order
32 rendered in other administrative proceedings, provide the Inspector
33 General with a copy of the order. The Inspector General shall
34 attach the order to the public ~~investigative~~ report on his or her
35 Internet Web site and provide copies of the report and order to the
36 Legislature, as well as to any complaining employee and any
37 employee who was the subject of the ~~investigation~~ *review*.

38 (2) In those cases where the employing entity and the employee
39 against whom disciplinary action has been taken enter into a
40 settlement agreement concerning the disciplinary action, the

1 employing entity shall, within 10 days of the settlement agreement
2 becoming final, notify the Inspector General in writing of that fact
3 and shall describe what disciplinary action, if any, was ultimately
4 imposed on the employee. The Inspector General shall include the
5 settlement information in the public ~~investigative~~ report on his or
6 her Internet Web site and provide copies of the report to the
7 Legislature, as well as to any complaining employee and any
8 employee who was the subject of the ~~investigation~~ review.

9 (3) In those cases where the employing entity declines to pursue
10 disciplinary action against an employee, the employing entity shall,
11 within 10 days of its decision, notify the Inspector General in
12 writing of its decision not to pursue disciplinary action, setting
13 forth the reasons for its decision. The Inspector General shall
14 include the decision and rationale in the public ~~investigative~~ report
15 on his or her Internet Web site and provide copies of the report to
16 the Legislature, as well as to any complaining employee and any
17 employee who was the subject of the ~~investigation~~ review.

18 (4) In those cases where ~~an investigation~~ a review has been
19 referred for possible criminal prosecution, and the applicable local
20 law enforcement agency or the Attorney General has decided to
21 commence criminal proceedings against an employee, the report
22 shall be made public at a time deemed appropriate by the Inspector
23 General after consultation with the local law enforcement agency
24 or the Attorney General, but in all cases no later than when
25 discovery has been provided to the defendant in the criminal
26 proceedings. The Inspector General shall thereafter post the public
27 ~~investigative~~ report on his or her Internet Web site and provide
28 copies of the report to the Legislature, as well as to any
29 complaining employee and any employee who was the subject of
30 the ~~investigation~~ review.

31 (5) In those cases where the local law enforcement agency or
32 the Attorney General declines to commence criminal proceedings
33 against an employee, the local law enforcement agency or the
34 Attorney General shall, within 30 days of reaching that decision,
35 notify the Inspector General of that fact. The Inspector General
36 shall include the decision in the public ~~investigative~~ report on his
37 or her Internet Web site and provide copies of the report to the
38 Legislature, as well as to any complaining employee and any
39 employee who was the subject of the ~~investigation~~ review.

1 (6) In those cases where an investigation has been referred for
2 neither disciplinary action or other administrative proceedings,
3 nor for criminal prosecution, the Inspector General shall include
4 the decision not to refer the matter in the public ~~investigative~~ report
5 on his or her Internet Web site and provide copies of the report to
6 the Legislature, as well as to any complaining employee and any
7 employee who was the subject of the ~~investigation~~ review.

8 ~~SEC. 21.~~

9 ~~SEC. 11.~~ Section 6132 of the Penal Code is amended to read:

10 6132. (a) Notwithstanding Section 10231.5 of the Government
11 Code, the ~~Office of Independent Correctional Oversight~~ *Inspector*
12 *General* shall report annually to the Governor and the Legislature
13 a summary of its reports. The summary shall be posted on the
14 office's Internet Web site and otherwise made available to the
15 public upon its release to the Governor and the Legislature. The
16 summary shall include, but not be limited to, significant problems
17 discovered by the office, and whether recommendations the office
18 has made have been implemented.

19 (b) A report pursuant to subdivision (a) shall be submitted in
20 compliance with Section 9795 of the Government Code.

21 ~~SEC. 22.~~ Section 6133 of the Penal Code is repealed.

22 ~~SEC. 23.~~ Section 6140 of the Penal Code is amended to read:

23 6140. ~~There is in the Office of Independent Correctional~~
24 ~~Oversight the California Rehabilitation Oversight Board (C-ROB).~~
25 The board shall consist of the 12 members as follows:

26 (a) ~~The Director of the Office of Independent Correctional~~
27 ~~Oversight, who shall serve as chair.~~

28 (b) ~~The Secretary of the Department of Corrections and~~
29 ~~Rehabilitation, or his or her designee.~~

30 (c) ~~The Superintendent of Public Instruction, or his or her~~
31 ~~designee.~~

32 (d) ~~The Chancellor of the California Community Colleges, or~~
33 ~~his or her designee.~~

34 (e) ~~The Director of the State Department of Alcohol and Drug~~
35 ~~Programs, or his or her designee.~~

36 (f) ~~The Director of Mental Health, or his or her designee.~~

37 (g) ~~A faculty member of the University of California who has~~
38 ~~expertise in rehabilitation of criminal offenders, appointed by the~~
39 ~~President of the University of California.~~

1 ~~(h) A faculty member of the California State University, who~~
2 ~~has expertise in rehabilitation of criminal offenders, appointed by~~
3 ~~the Chancellor of the California State University.~~

4 ~~(i) A county sheriff, appointed by the Governor.~~

5 ~~(j) A county chief probation officer, appointed by the Senate~~
6 ~~Committee on Rules.~~

7 ~~(k) A local government official who provides mental health,~~
8 ~~substance abuse, or educational services to criminal offenders,~~
9 ~~appointed by the Speaker of the Assembly.~~

10 ~~(l) The State Auditor.~~

11 ~~SEC. 24. No reimbursement is required by this act pursuant to~~
12 ~~Section 6 of Article XIII B of the California Constitution because~~
13 ~~the only costs that may be incurred by a local agency or school~~
14 ~~district will be incurred because this act creates a new crime or~~
15 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
16 ~~for a crime or infraction, within the meaning of Section 17556 of~~
17 ~~the Government Code, or changes the definition of a crime within~~
18 ~~the meaning of Section 6 of Article XIII B of the California~~
19 ~~Constitution.~~

20

21

22 CORRECTIONS:

23 Text—Pages 16 and 20.

24

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