

Senate Bill No. 1913

CHAPTER 969

An act to amend Sections 6125, 6126, 6127, 6128, and 6129 of, and to add Sections 5066, 6126.1, and 6126.2 to, the Penal Code, relating to the office of the Inspector General, and making an appropriation therefor.

[Approved by Governor September 29, 1998. Filed
with Secretary of State September 29, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1913, Ayala. Office of the Inspector General.

Existing law establishes the office of the Inspector General, to be housed and supported by the Youth and Adult Correctional Agency, and prescribes the responsibilities of that office. Existing law authorizes the office of the Inspector General to receive communications from any individual employed by any department, board, or authority who believes he or she may have information that may describe a variance from departmental investigatory policies and procedures.

This bill would revise and recast these provisions by specifying that the office of the Inspector General shall be independent, and would require the Youth and Adult Correctional Agency, in consultation with the Commission on Correctional Peace Officer Standards and Training and the Inspector General, to establish a certification program for investigators of the office of the Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms. The bill also would require the Inspector General to establish a toll-free public telephone number to be posted at specified locations for the purpose of identifying any alleged wrongdoing by any public safety employee.

The bill additionally would authorize the State Controller, at the request of the Department of Finance, to transfer positions and funds, as appropriated in the Budget Act of 1998, from the Youth and Adult Correctional Agency to the Department of Corrections and the Department of the Youth Authority for purposes of the internal affairs operations of those departments, thereby making an appropriation. Under the bill, all funds appropriated and positions created for support of the office of the Inspector General in the Budget Act of 1998, would be required to be transferred, upon approval of the Department of Finance, to the office of the Inspector General created by these provisions. The bill also would require the

Department of Corrections, the Department of the Youth Authority, and the office of the Inspector General to submit a deficiency request to the Department of Finance pursuant to the Budget Act of 1998.

Appropriation: yes.

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

SECTION 1. Section 5066 is added to the Penal Code, to read:

5066. The Director of Corrections shall expand the existing prison ombudsman program to ensure the comprehensive deployment of ombudsmen throughout the state prison system with specific focus on the maximum security institutions. The director shall submit a report to the chairs of the appropriate fiscal and policy committees on the Legislature by February 1, 1999, outlining the plans for implementation of this section.

SEC. 2. Section 6125 of the Penal Code is amended to read:

6125. There is hereby created the independent office of the Inspector General, which shall not be a subdivision of any other governmental entity. The Governor shall appoint the Inspector General, subject to Senate confirmation of that appointment.

SEC. 3. Section 6126 of the Penal Code is amended to read:

6126. (a) Inspector General shall be responsible for reviewing departmental policy and procedures for conducting investigations and audits of investigatory practices and other audits and investigations of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, or the Board of Corrections, as requested by either the Secretary of the Youth and Adult Correctional Agency or a Member of the Legislature, pursuant to the approval of the Inspector General under policies to be developed by the Inspector General.

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

(c) In the accomplishment of investigatory audits, the Inspector General shall also identify areas of full and partial compliance, and noncompliance, with departmental investigatory policies and procedures, specify deficiencies in the completion and documentation of investigatory processes, and recommend corrective actions, including, but not limited to, additional training with respect to investigative policies.

SEC. 4. Section 6126.1 is added to the Penal Code, to read:

6126.1. (a) In consultation with the Commission on Correctional Peace Officer Standards and Training and the Inspector General, the Youth and Adult Correctional Agency shall establish a certification program for investigators under the jurisdiction of the Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of



Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms. The investigators' training course shall be consistent with the standard courses utilized by other major investigative offices, such as county sheriff and city police departments and the California Highway Patrol.

(b) Beginning January 1, 1999, all internal affairs investigators conducting investigations for the office of the Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms shall complete the investigation training and be certified within six months of employment.

(c) Beginning January 1, 1999, all internal affairs investigators shall successfully pass a psychological screening exam before becoming employed with the office of the Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, or the Board of Prison Terms.

SEC. 5. Section 6126.2 is added to the Penal Code, to read:

6126.2. The Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms shall not hire as an internal affairs investigator any person known to be directly or indirectly involved in an open internal affairs investigation being conducted by any federal, state, or local law enforcement agency or the Inspector General.

SEC. 6. Section 6127 of the Penal Code is amended to read:

6127. (a) The Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Youth and Adult Correctional Agency shall comply with all requests of the Inspector General for any document or record contained on any medium. The Inspector General shall be deemed to be a department head for the purpose of Section 11189 of the Government Code in connection with any investigation or audit conducted pursuant to this chapter.

(b) The Inspector General may require any employee of either department to be interviewed on a confidential basis. Any employee so requested shall comply and shall have time afforded by the appointing authority for the purpose of an interview with the Inspector General or his or her designee. Any record created by an interview shall be deemed confidential for use by the Inspector General and the Secretary of the Youth and Adult Correctional Agency only. It is not the purpose of these communications to address disciplinary action or grievance procedures that may routinely occur.



SEC. 7. Section 6128 of the Penal Code is amended to read:

6128. (a) The office of the Inspector General may receive communications from any individual, including those employed by any department, board, or authority who believes he or she may have information that may describe a variance from departmental investigatory policies and procedures. The identity of the person providing the information shall be held as confidential by the Inspector General and may be disclosed only to the secretary or the Governor, or the appropriate director or chair, in confidence or a law enforcement agency in the furtherance of their duties. It is not the purpose of these communications to redress any single disciplinary action or grievance that may routinely occur.

(b) In order to properly respond to any allegation of improper governmental activity, the Inspector General shall establish a toll-free public telephone number for the purpose of identifying any alleged wrongdoing by an employee of any public safety department, board, or authority. This telephone number shall be posted throughout all state public safety departments, boards, and authorities in clear view of all employees and the public. When appropriate, the Inspector General shall initiate an investigation or audit of any alleged wrongdoing. However, any request to conduct an investigation shall be in writing. The request shall be confidential and is not subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) The identity of the person providing the information that initiated the investigation shall not be disclosed without the person's written permission, except to a law enforcement agency in the furtherance of its duties.

SEC. 8. Section 6129 of the Penal Code is amended to read:

6129. (a) Any state employee at any rank and file, supervisory, or managerial level who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of either department for having disclosed what the employee, in good faith, believed to be improper activities shall be disciplined by adverse action as provided in Section 19572 of the Government Code. If no adverse action is instituted by the appointing power, the State Personnel Board shall invoke adverse action as provided in Section 19583.5 of the Government Code.

(b) In addition to all other penalties provided by law, any state employee at any rank and file, supervisory, or managerial level who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee of either department for having disclosed what the employee, in good faith, believed to be improper activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court if the acts of the offending party are proven to be malicious. If



reliability has been established, the injured party also shall be entitled to reasonable attorney's fees as provided by law.

(c) The Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms shall refer matters involving criminal conduct to the proper law enforcement authorities in the appropriate jurisdiction for further action. The entity making a referral to the local district attorney shall also notify the Attorney General of the action. If the local district attorney refuses to accept the case, he or she shall notify the referring entity who shall subsequently refer the matter to the Attorney General. If the local district attorney has not acted on the matter, the referring entity shall notify the Attorney General. It is the intent of the Legislature that the Department of Justice avoid any conflict of interest in representing the State of California in any civil litigation that may arise in a case in which an investigation has been or is currently being conducted by the Bureau of Investigation by contracting when necessary for private counsel.

SEC. 9. Notwithstanding any other provision of law, the Controller, at the request of the Department of Finance, shall transfer positions and funds from the Youth and Adult Correctional Agency, Item 0550-001-0001 of the Budget Act of 1998, to the Department of Corrections and the Department of the Youth Authority for internal affairs operations.

SEC. 10. All funds appropriated and positions created for support of the office of the Inspector General in Item 0550-001-0001 of the Budget Act of 1998 shall be transferred upon approval of the Department of Finance to the office of the Inspector General as established pursuant to Section 1 of this act.

SEC. 11. Notwithstanding any provision of law, the Department of Corrections, the Department of the Youth Authority, and the office of the Inspector General shall submit a deficiency request to the Department of Finance pursuant to Section 27 of the Budget Act of 1998.

