

# STATE OF NEW YORK

3595--A

2019-2020 Regular Sessions

## IN SENATE

February 11, 2019

Introduced by Sens. PARKER, BRESLIN, BROOKS, HOYLMAN, JACKSON, KAVANAGH, LIU, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing the office of the law enforcement inspector general

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 75 to  
2 read as follows:

3 § 75. Office of the law enforcement inspector general. 1. Jurisdic-  
4 tion. This section shall, subject to the limitations contained in this  
5 section, confer upon the office of the law enforcement inspector general  
6 jurisdiction over all covered agencies. For the purposes of this section  
7 "covered agency" means a police agency or department of the state or any  
8 political subdivision thereof, including authorities or agencies main-  
9 taining a police force or police forces of individuals defined as police  
10 officers in section 1.20 of the criminal procedure law. Wherever a  
11 covered agency is a board, commission, a public authority or public  
12 benefit corporation, the head of the agency is the chairperson thereof.

13 2. Establishment and organization. (a) There is hereby established the  
14 office of the law enforcement inspector general in the department of  
15 law. The head of the office shall be the law enforcement inspector  
16 general who shall be appointed by the attorney general.

17 (b) The law enforcement inspector general shall serve for a five-year  
18 term and shall not holdover pursuant to section five of the public offi-  
19 cers law. Upon the expiration of a five-year term or a vacancy, the  
20 attorney general shall reappoint the office holder or appoint a succes-  
21 sor within sixty days. The attorney general may remove the law enforce-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 ment inspector general during his or her term only for good cause after  
2 an opportunity to be heard.

3 (c) The law enforcement inspector general may appoint one or more  
4 deputy inspectors general to serve at his or her pleasure.

5 (d) The salary of the law enforcement inspector general shall be  
6 established within the limit of funds available therefore; provided,  
7 however, such salary shall be no less than the salaries of certain state  
8 officers holding the positions indicated in paragraph (a) of subdivision  
9 one of section one hundred sixty-nine of this chapter.

10 (e) The mission of the office of the law enforcement inspector general  
11 shall be to review, study, audit and make recommendations relating to  
12 the operations, policies, programs and practices, including ongoing  
13 partnerships with other law enforcement agencies, of state and local law  
14 enforcement agencies with the goal of enhancing the effectiveness of law  
15 enforcement, increasing public safety, protecting civil liberties and  
16 civil rights, ensuring compliance with constitutional protections and  
17 local, state and federal laws, and increasing the public's confidence in  
18 law enforcement.

19 3. Functions and duties. The law enforcement inspector general shall  
20 have the following duties and responsibilities:

21 (a) receive and investigate complaints from any source, or upon his or  
22 her own initiative, concerning allegations of corruption, fraud, use of  
23 excessive force, criminal activity, conflicts of interest or abuse in  
24 any covered agency;

25 (b) inform the heads of covered agencies of such allegations and the  
26 progress of investigations related thereto, unless special circumstances  
27 require confidentiality;

28 (c) determine with respect to such allegations whether disciplinary  
29 action, civil or criminal prosecution, or further investigation by an  
30 appropriate federal, state or local agency is warranted, and to assist  
31 in such investigations;

32 (d) prepare and release to the public written reports of investi-  
33 gations, as appropriate and to the extent permitted by law, subject to  
34 redaction to protect the confidentiality of witnesses and other informa-  
35 tion that would be exempt from disclosure under article six of the  
36 public officers law. The release of all or portions of such reports may  
37 be temporarily deferred to protect the confidentiality of ongoing inves-  
38 tigations;

39 (e) review and examine periodically the policies and procedures of  
40 covered agencies with regard to the prevention and detection of  
41 corruption, fraud, use of excessive force, criminal activity, conflicts  
42 of interest and abuse;

43 (f) recommend remedial action to prevent or eliminate corruption,  
44 fraud, use of excessive force, criminal activity, conflicts of interest  
45 and abuse in covered agencies; and

46 (g) investigate patterns, practices, systemic issues, or trends iden-  
47 tified by analyzing actions, claims, complaints, and investigations,  
48 including, but not limited to, any patterns or trends regarding depart-  
49 ments, precincts, and commands; and

50 (h) on an annual basis, submit to the governor, the attorney general,  
51 the temporary president of the senate, the speaker of the assembly, the  
52 minority leader of the senate and the minority leader of the assembly,  
53 no later than December thirty-first, a report summarizing the activities  
54 of the law enforcement inspector general and recommending specific  
55 changes to state law to further the mission of the office of the law  
56 enforcement inspector general.

1 4. Powers. The law enforcement inspector general shall have the power  
2 to:

3 (a) subpoena and enforce the attendance of witnesses;

4 (b) administer oaths or affirmations and examine witnesses under oath;

5 (c) require the production of any books and papers deemed relevant or  
6 material to any investigation, examination or review;

7 (d) notwithstanding any law to the contrary, examine and copy or  
8 remove documents or records of any kind prepared, maintained or held by  
9 any covered agency;

10 (e) require any officer or employee in a covered agency to answer  
11 questions concerning any matter related to the performance of his or her  
12 official duties. No statement or other evidence derived therefrom may be  
13 used against such officer or employee in any subsequent criminal prose-  
14 cution other than for perjury or contempt arising from such testimony.  
15 The refusal of any officer or employee to answer questions shall be  
16 cause for removal from office or employment or other appropriate penal-  
17 ty;

18 (f) monitor the implementation by covered agencies of any recommenda-  
19 tions made by the law enforcement inspector general; and

20 (g) perform any other functions that are necessary or appropriate to  
21 fulfill the duties and responsibilities of office.

22 5. Responsibilities of covered agencies, officers and employees. (a)  
23 Every officer or employee in a covered agency shall report promptly to  
24 the law enforcement inspector general any information concerning  
25 corruption, fraud, use of excessive force, criminal activity, conflicts  
26 of interest or abuse by another officer or employee relating to his or  
27 her office or employment, or by a person having business dealings with a  
28 covered agency relating to those dealings. The knowing failure of any  
29 officer or employee to so report shall be cause for removal from office  
30 or employment or other appropriate penalty. Any officer or employee who  
31 acts pursuant to this subdivision by reporting to the law enforcement  
32 inspector general shall not be subject to dismissal, discipline or other  
33 adverse personnel action.

34 (b) Upon receiving at least five complaints from five or more individ-  
35 uals relating to at least five separate incidents involving a certain  
36 officer or employee within two years, the head of any covered agency  
37 shall refer such complaints to the law enforcement inspector general for  
38 review. The law enforcement inspector general shall investigate such  
39 complaints to determine whether the subject officer or employee has  
40 engaged in a pattern or practice of misconduct, use of excessive force,  
41 or acts of dishonesty. The referral and investigation pursuant to this  
42 subdivision shall be in addition to and shall not supersede any civil,  
43 criminal, administrative or other action or proceeding relating to such  
44 complaints or the subject officer or employee.

45 (c) The head of any covered agency shall advise the governor, the  
46 temporary president of the senate, the speaker of the assembly, the  
47 minority leader of the senate and the minority leader of the assembly  
48 within ninety days of the issuance of a report by the state inspector  
49 general as to the remedial action that the agency has taken in response  
50 to any recommendation for such action contained in such report.

51 (d) Nothing in this section shall be construed to impede, infringe, or  
52 diminish the rights, privileges, benefits or remedies that accrue to any  
53 employee pursuant to any agreement entered into pursuant to article  
54 fourteen of the civil service law.

55 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
56 sion, section or part of this act shall be adjudged by any court of

1 competent jurisdiction to be invalid, such judgment shall not affect,  
2 impair, or invalidate the remainder thereof, but shall be confined in  
3 its operation to the clause, sentence, paragraph, subdivision, section  
4 or part thereof directly involved in the controversy in which such judg-  
5 ment shall have been rendered. It is hereby declared to be the intent of  
6 the legislature that this act would have been enacted even if such  
7 invalid provisions had not been included herein.

8 § 3. This act shall take effect on the first of April next succeeding  
9 the date on which it shall have become a law.