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**HOUSE BILL NO. 287**

Offered January 8, 2014

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*A BILL to amend and reenact §§ 2.2-309, 2.2-309.1, 2.2-309.3, and 2.2-309.4 of the Code of Virginia, relating to the Office of the State Inspector General; powers and duties.*

Patron—Landes

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-309, 2.2-309.1, 2.2-309.3, and 2.2-309.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-309. Powers and duties of State Inspector General.**

A. The State Inspector General shall have power and duty to:

1. Operate and manage the Office and employ such personnel as may be required to carry out the provisions of this chapter;

2. Make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter and apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter;

3. Receive complaints from whatever source that allege fraud, waste, including task or program duplication, abuse, or corruption by a state agency or nonstate agency or by any officer or employee of the foregoing and determine whether the complaints give reasonable cause to investigate;

4. Investigate the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury;

5. Prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption has been detected. If fraud, waste, abuse, or corruption is detected, the report shall (i) identify the person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii) describe any corrective measures taken by the state agency or nonstate agency in which the wrongful act or omission was committed to prevent recurrences of similar actions;

6. Provide timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law;

7. Administer the Fraud and Abuse Whistle Blower Reward Fund created pursuant to § 2.2-3014;

8. Oversee the Fraud, Waste and Abuse Hotline;

9. Conduct performance reviews of state agencies to *assess the efficiency, effectiveness, or economy of programs and to ascertain, among other things, that sums appropriated have been or are being expended for the purposes for which the appropriation was made; evaluate the effectiveness of the programs in accomplishing such purpose;* and prepare a report for each performance review detailing any findings or recommendations for improving the efficiency, *effectiveness, or economy* of state agencies, including recommending changes in the law to the Governor and the General Assembly that are necessary to address such findings;

10. Coordinate and require standards for those internal audit programs in existence as of July 1, 2012, and for other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls;

11. As deemed necessary, assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies and make recommendations to protect the Commonwealth's assets;

12. Assist agency internal auditing programs with technical auditing issues and coordinate and provide training to the Commonwealth's internal auditors;

13. Assist citizens in understanding their rights and the processes available to them to express concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the foregoing;

INTRODUCED

HB287

59 14. Maintain data on inquiries received, the types of assistance requested, any actions taken, and the  
60 disposition of each such matter;

61 15. Upon request, assist citizens in using the procedures and processes available to express concerns  
62 regarding the activities of a state or nonstate agency or any officer or employee of the foregoing;

63 16. Ensure that citizens have access to the services provided by the State Inspector General and that  
64 citizens receive timely responses to their inquiries from the State Inspector General or his  
65 representatives; and

66 17. Do all acts necessary or convenient to carry out the purposes of this chapter.

67 B. If the State Inspector General receives a complaint from whatever source that alleges fraud, waste,  
68 abuse, or corruption by a public institution of higher education or any of its officers or employees, the  
69 State Inspector General ~~shall~~ *may* refer the complaint to the internal audit department of the public  
70 institution of higher education for investigation, ~~unless~~. *However, if* the complaint concerns the president  
71 of the institution or its internal audit department, ~~in which case~~ the investigation shall be conducted by  
72 the State Inspector General.

73 The public institution of higher education shall provide periodic updates on the status of any  
74 investigation and make the results of any such investigation available to the State Inspector General.

75 **§ 2.2-309.1. Additional powers and duties; behavioral health and developmental services.**

76 A. The definitions found in § 37.2-100 shall apply mutatis mutandis to the terms used in this section.

77 B. In addition to the duties set forth in this chapter, the State Inspector General shall have the  
78 following powers and duties to:

79 1. Provide inspections of and make policy and operational recommendations for state facilities and  
80 for providers, including licensed mental health treatment units in state correctional facilities, in order to  
81 prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and  
82 services. The State Inspector General shall provide oversight and conduct announced and unannounced  
83 inspections of state facilities and of providers, including licensed mental health treatment units in state  
84 correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect, or  
85 inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect, or  
86 inadequate care or other information received. The State Inspector General shall conduct unannounced  
87 inspections at each state facility at least once annually;

88 2. Inspect, monitor, and review the quality of services provided in state facilities and by providers as  
89 defined in § 37.2-403, including licensed mental health treatment units in state correctional facilities;

90 3. Access any and all information, including confidential consumer information, related to the  
91 delivery of services to consumers in state facilities or served by providers, including licensed mental  
92 health treatment units in state correctional facilities. However, the State Inspector General shall not be  
93 given access to any proceedings, minutes, records, or reports of providers that are privileged under  
94 § 8.01-581.17, except that the State Inspector General shall be given access to any privileged  
95 information in state facilities and licensed mental health treatment units in state correctional facilities.  
96 All consumer information shall be maintained by the State Inspector General as confidential in the same  
97 manner as is required by the agency or provider from which the information was obtained;

98 4. Keep the General Assembly and the Joint Commission on Health Care fully and currently  
99 informed by means of reports required by § 2.2-313 concerning significant problems, abuses, and  
100 deficiencies relating to the administration of the programs and services of state facilities and of  
101 providers, including licensed mental health treatment units in state correctional facilities, to recommend  
102 corrective actions concerning the problems, abuses, and deficiencies, and report on the progress made in  
103 implementing the corrective actions;

104 5. Review, comment on, and make recommendations about, as appropriate, any reports prepared by  
105 the Department of Behavioral Health and Developmental Services and the critical incident data collected  
106 by the Department of Behavioral Health and Developmental Services in accordance with regulations  
107 adopted under § 37.2-400 to identify issues related to quality of care, seclusion and restraint, medication  
108 usage, abuse and neglect, staff recruitment and training, and other systemic issues;

109 6. Monitor, review, and ~~participate in the adoption of~~ *comment on, as deemed necessary, the*  
110 *regulations adopted by the State Board of Behavioral Health and Developmental Services;* and

111 7. Receive reports, information, and complaints from the Commonwealth's designated protection and  
112 advocacy system concerning issues related to quality of care provided in state facilities and by providers,  
113 including licensed mental health treatment units in state correctional facilities, and conduct independent  
114 reviews and investigations.

115 **§ 2.2-309.3. Additional powers and duties; adult corrections.**

116 A. The definitions found in § 53.1-1 shall apply mutatis mutandis to the terms used in this section.

117 B. In addition to the duties set forth in this chapter, the State Inspector General shall have the  
118 following powers and duties to:

119 1. ~~Review power and duty to review~~, comment on, and make recommendations about, as appropriate,  
120 any reports prepared by the Department of Corrections and any critical incident data collected by the

Department of *Corrections* in accordance with regulations adopted to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues; and

~~2. Monitor and participate in the adoption of regulations by the Board.~~

C. Nothing in this section shall be construed to grant the Office any authority over the operation and security of local jails that is not specified in other provisions of law.

**§ 2.2-309.4. Additional powers and duties; juvenile justice.**

A. The definitions found in § 66-12 shall apply mutatis mutandis to the terms used in this section.

B. In addition to the duties set forth in this chapter, the State Inspector General shall have the following powers and duties to:

~~1. Review power and duty to review,~~ comment on, and make recommendations about, as appropriate, any reports prepared by the Department of *Juvenile Justice* and any critical incident data collected by the Department of *Juvenile Justice* in accordance with regulations adopted to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues; and

~~2. Monitor and participate in the adoption of regulations by the Board.~~

C. Nothing in this section shall be construed to grant the Office any authority over the operation and security of detention homes that is not specified in other provisions of law.