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HOUSE BILL NO. 1100

Offered January 8, 2020

Prefiled January 7, 2020

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

Patron—Carr

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-309 and 2.2-3014 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. Receive complaints under § 2.2-2832 from persons alleging retaliation by an officer or employee of a state agency for providing testimony before a committee or subcommittee of the General Assembly and determine whether the complaints give reasonable cause to investigate;

5. Investigate the management and operations of state agencies, nonstate agencies, and independent contractors of state agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or independent contractors of a state agency 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;

6. 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;

7. 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;

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

9. Oversee the Fraud, Waste and Abuse Hotline;

10. 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 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;

11. 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;

12. 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;

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

14. Assist citizens in understanding their rights and the processes available to them to express

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concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the foregoing;

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

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

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

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

B. ~~If the State Inspector General receives a complaint from whatever source that alleges fraud, waste, abuse, or corruption by a public institution of higher education or any of its officers or employees, the State Inspector General shall, but for reasonable and articulable causes, refer the complaint to the internal audit department of the public institution of higher education for investigation. However, if the complaint concerns the president of the institution or its internal audit department, the investigation shall be conducted by the State Inspector General. The State Inspector General may provide assistance for investigations as may be requested by the public institution of higher education.~~

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

The State Inspector General shall establish procedures governing the intake and investigation of complaints alleging allegations of fraud, waste, abuse, or corruption by a state agency or nonstate agency or by any officer or employee of a state agency or nonstate agency. Such procedures shall:

1. Provide that the State Inspector General, or his designee, shall review each decision to dismiss an allegation reported to the State Fraud, Waste, and Abuse Hotline at the initial intake stage without further investigation.

2. Require that (i) investigators of the Office of State Inspector General directly investigate allegations of serious administrative violations and (ii) other agency internal audit divisions may investigate allegations meeting certain criteria specified by the State Inspector General, only if the internal audit division has demonstrated the ability to conduct investigations in an independent, effective, and timely manner. Criteria may include allegations below a specified dollar threshold.

3. Require oversight by the Office of the State Inspector General of all investigations referred to other agencies to ensure quality, timeliness, and independence.

4. Develop a process for the regular review of the status of recommendations made by the Office of the Inspector General as a result of an investigation conducted pursuant to this chapter.

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

A. The definitions found in § 37.2-100 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. Provide inspections of and make policy and operational recommendations for state facilities and for providers, including licensed mental health treatment units in state correctional facilities, in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and services. The State Inspector General shall provide oversight and conduct announced and unannounced inspections of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect, or inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect, or inadequate care or other information received. The State Inspector General shall conduct unannounced inspections at each state facility at least once annually;

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

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

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

implementing the corrective actions;

5. *Provide oversight of the Department of Behavioral Health and Developmental Services and community-based providers to identify system-level issues and conditions affecting quality of care and safety and provide recommendations to alleviate such issues and conditions.*

6. Implement a program to promote awareness of the complaints line operated by the Office of the State Inspector General among residents of facilities operated by the Department of Behavioral Health and Developmental Services and persons receiving services from community-based providers regulated by the Department of Behavioral Health and Developmental Services.

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

~~6.~~ *8.* As deemed necessary, monitor, review, and comment on regulations adopted by the Board of Behavioral Health and Developmental Services; and

~~7.~~ *9.* Receive reports, information, and complaints from the Commonwealth's designated protection and advocacy system concerning issues related to quality of care provided in state facilities and by providers, including licensed mental health treatment units in state correctional facilities, and conduct independent reviews and investigations.

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