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By:  Perry S.B. No. 1868

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the office of inspector general of the Texas Juvenile Justice Department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12.  WHO ARE PEACE OFFICERS.  The following are peace officers:

(1)  sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2)  constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3)  marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4)  rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5)  investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6)  law enforcement agents of the Texas Alcoholic Beverage Commission;

(7)  each member of an arson investigating unit commissioned by a city, a county, or the state;

(8)  officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9)  officers commissioned by the General Services Commission;

(10)  law enforcement officers commissioned by the Parks and Wildlife Commission;

(11)  officers commissioned under Chapter 23, Transportation Code;

(12)  municipal park and recreational patrolmen and security officers;

(13)  security officers and investigators commissioned as peace officers by the comptroller;

(14)  officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(15)  officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(16)  investigators commissioned by the Texas Medical Board;

(17)  officers commissioned by:

(A)  the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;

(B)  the board of directors of the Ector County Hospital District under Section 1024.117, Special District Local Laws Code;

(C)  the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and

(D)  the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section 1053.113, Special District Local Laws Code;

(18)  county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(19)  investigators employed by the Texas Racing Commission;

(20)  officers commissioned under Chapter 554, Occupations Code;

(21)  officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(22)  investigators commissioned by the attorney general under Section 402.009, Government Code;

(23)  security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(24)  officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(25)  officers commissioned by the state fire marshal under Chapter 417, Government Code;

(26)  an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(27)  officers appointed by the chief inspector general of [~~apprehension specialists and inspectors general commissioned by~~] the Texas Juvenile Justice Department [~~as officers~~] under Section [~~Sections~~] 242.102 [~~and 243.052~~], Human Resources Code;

(28)  officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(29)  investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

(30)  commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code;

(31)  the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(32)  officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; and

(33)  [~~investigators commissioned by the Texas Juvenile Justice Department as officers under Section 221.011, Human Resources Code; and~~

[~~(34)~~]  the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

SECTION 2.  Articles 18B.001(1) and (4), Code of Criminal Procedure, are amended to read as follows:

(1)  "Authorized peace officer" means:

(A)  a sheriff or deputy sheriff;

(B)  a constable or deputy constable;

(C)  a marshal or police officer of a municipality;

(D)  a ranger or officer commissioned by the Public Safety Commission or the director of the department;

(E)  an investigator of a prosecutor's office;

(F)  a law enforcement agent of the Texas Alcoholic Beverage Commission;

(G)  a law enforcement officer commissioned by the Parks and Wildlife Commission;

(H)  an enforcement officer appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(I)  a law enforcement officer commissioned by the inspector general of the Texas Juvenile Justice Department;

(J)  an investigator commissioned by the attorney general under Section 402.009, Government Code; or

(K) [~~(J)~~]  a member of an arson investigating unit commissioned by a municipality, a county, or the state.

(4)  "Designated law enforcement office or agency" means:

(A)  the sheriff's department of a county with a population of 3.3 million or more;

(B)  a police department in a municipality with a population of 200,000 or more; [~~or~~]

(C)  the office of inspector general of the Texas Department of Criminal Justice; or

(D)  the office of inspector general of the Texas Juvenile Justice Department.

SECTION 3.  Article 18B.252(b), Code of Criminal Procedure, is amended to read as follows:

(b)  If the director of the department or the director's designee approves the policy submitted under Article 18B.251, the inspector general of the Texas Department of Criminal Justice or the inspector general's designee, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency or the sheriff's or chief's designee, as applicable, shall submit to the director a written list of all peace officers in the designated law enforcement office or agency who are authorized to possess, install, operate, or monitor pen registers, ESN readers, or similar equipment.

SECTION 4.  Article 18B.302(a), Code of Criminal Procedure, is amended to read as follows:

(a)  The inspector general of the Texas Department of Criminal Justice, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency, as applicable, shall submit to the director of the department a written report of expenditures made by the designated law enforcement office or agency to purchase and maintain a pen register, ESN reader, or similar equipment authorized under this chapter.

SECTION 5.  Article 18B.451, Code of Criminal Procedure, is amended to read as follows:

Art. 18B.451.  SUBPOENA AUTHORITY. The director of the department or the director's designee, the inspector general of the Texas Department of Criminal Justice or the inspector general's designee, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency or the sheriff's or chief's designee may issue an administrative subpoena to a communication common carrier or a provider of an electronic communications service to compel the production of any carrier's or service provider's business records that:

(1)  disclose information about:

(A)  the carrier's or service provider's customers; or

(B)  users of the services offered by the carrier or service provider; and

(2)  are material to a criminal investigation.

SECTION 6.  Article 18B.452, Code of Criminal Procedure, is amended to read as follows:

Art. 18B.452.  REPORT OF ISSUANCE OF SUBPOENA. Not later than the 30th day after the date on which an administrative subpoena is issued under Article 18B.451, the inspector general of the Texas Department of Criminal Justice, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency, as applicable, shall report to the department the issuance of the subpoena.

SECTION 7.  Section 659.301(5), Government Code, is amended to read as follows:

(5)  "State employee" means an individual who:

(A)  is a commissioned law enforcement officer of the Department of Public Safety, the Texas Facilities Commission, the Texas Alcoholic Beverage Commission, the Texas Department of Criminal Justice, the office of inspector general of the Texas Juvenile Justice Department, the attorney general, or the insurance fraud unit of the Texas Department of Insurance;

(B)  is a commissioned security officer of the comptroller;

(C)  is a law enforcement officer commissioned by the Parks and Wildlife Commission;

(D)  is a commissioned peace officer of an institution of higher education;

(E)  is an employee or official of the Board of Pardons and Paroles or the parole division of the Texas Department of Criminal Justice if the employee or official has routine direct contact with inmates of any penal or correctional institution or with administratively released prisoners subject to the board's jurisdiction;

(F)  has been certified to the Employees Retirement System of Texas under Section 815.505 as having begun employment as a law enforcement officer or custodial officer, unless the individual has been certified to the system as having ceased employment as a law enforcement officer or custodial officer;

(G)  before May 29, 1987, received hazardous duty pay based on the terms of any state law if the individual holds a position designated under that law as eligible for the pay; or

(H)  is a security officer employed by the Texas Military Department.

SECTION 8.  Section 661.918(a), Government Code, is amended to read as follows:

(a)  This section applies to a peace officer under Article 2.12, Code of Criminal Procedure, who is commissioned as a law enforcement officer or agent, including a ranger, by:

(1)  the Public Safety Commission and the director of the Department of Public Safety;

(2)  the Parks and Wildlife Commission;

(3)  the Texas Alcoholic Beverage Commission;

(4)  the attorney general; [~~or~~]

(5)  the insurance fraud unit of the Texas Department of Insurance; or

(6)  the office of inspector general of the Texas Juvenile Justice Department.

SECTION 9.  Section 662.005(b), Government Code, is amended to read as follows:

(b)  Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, a state employee who is a peace officer commissioned by a state officer or state agency listed under Article 2.12, Code of Criminal Procedure, or who is employed by the Department of Public Safety either to perform communications or dispatch services related to traffic law enforcement or as a public security officer, as that term is defined by Section 1701.001, Occupations Code, or who is employed by the Parks and Wildlife Department to perform communications and dispatch services to assist law enforcement officers commissioned by the Parks and Wildlife Commission in performing law enforcement duties, or who is employed by the office of inspector general of the Texas Juvenile Justice Department to perform communication service duties for the incident reporting center and to assist law enforcement officers commissioned by the office of inspector general for the Texas Juvenile Justice Department in performing investigative duties, or who is employed as a security officer providing security and entry searches for secure correctional facilities operated by the Texas Juvenile Justice Department, and who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday.

SECTION 10.  Section 203.010, Human Resources Code, is amended to read as follows:

Sec. 203.010.  COMPLAINTS. (a)  The office of inspector general of the department shall maintain a system to promptly and efficiently act on complaints received by the department by or on behalf of a juvenile relating to the programs, services, or facilities of the department or a local juvenile probation department.

(b)  The office of inspector general [~~department~~] shall make information available describing its procedures for complaint investigation and resolution.

(c)  Criminal complaints initially referred to the office of [~~the~~] inspector general relating to juvenile probation programs, services, or facilities shall be sent to the appropriate local law enforcement agency. The office of inspector general has concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation under Section 242.102. Any other complaint shall be referred to the appropriate division of the department. [~~The board by rule shall establish policies for the referral of noncriminal complaints.~~]

(d)  The office of inspector general [~~department~~] shall provide immediate notice to a local juvenile probation department of a complaint received by the department relating to the programs, services, or facilities of the local juvenile probation department.

(e)  The office of inspector general [~~department~~] shall periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an undercover investigation. If the complaint relates to a claim of abuse, neglect, or exploitation involving a local juvenile probation department, the office of inspector general [~~department~~] shall provide monthly updates on the status of the complaint and immediate updates regarding department decisions to the local juvenile probation department.

(f)  The office of inspector general [~~department~~] shall keep information about each written complaint filed with the department.  The information must include:

(1)  the subject matter of the complaint;

(2)  the parties to the complaint;

(3)  a summary of the results of the review or investigation of the complaint;

(4)  the period of time between the date the complaint is received and the date the complaint is closed; and

(5)  the disposition of the complaint.

SECTION 11.  Section 203.014(c), Human Resources Code, is amended to read as follows:

(c)  The office of inspector general shall operate the toll-free number required by Subsection (a) and the 24-hour incident reporting center and [~~department~~] shall share the complaints received with the appropriate department entity [~~on the toll-free number with the office of inspector general and the office of the independent ombudsman~~].

SECTION 12.  Section 242.102, Human Resources Code, is amended by amending Subsections (a), (b), (c), (d), (g), and (h) and adding Subsections (a-1), (a-2), and (j) to read as follows:

(a)  The office of inspector general is established at the department under the direction of the board as a law enforcement agency for the purpose of:

(1)  preventing, detecting, and investigating:

(A)  crimes committed by department employees, including parole officers employed by or under a contract with the department; and

(B)  crimes and delinquent conduct committed at a facility operated by the department, a residential facility operated by another entity under a contract with the department, or any facility in which a child committed to the custody of the department is housed or receives medical or mental health treatment, including:

(i)  unauthorized or illegal entry into a department facility;

(ii)  the introduction of contraband into a department facility;

(iii)  escape from a secure facility; and

(iv)  organized criminal activity; [~~and~~]

(2)  investigating complaints received under Section 203.010 involving allegations of abuse, neglect, or exploitation of children in juvenile justice programs or facilities under Section 261.405, Family Code;

(3)  investigating complaints of abuse, neglect, or exploitation of:

(A)  pre-adjudicated or post-adjudicated juveniles housed in public or private secure or non-secure facilities regardless of licensing entity; and

(B)  juveniles committed to the department;

(4)  apprehending juveniles after escape or violation of release conditions as described by Section 243.051;

(5)  investigating gang-related activity within the juvenile justice system; and

(6)  performing entry security and exterior perimeter security searches for a department-operated secure correctional facility, as defined by Section 51.02, Family Code.

(a-1)  The office of inspector general has concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation under Subsection (a)(3).

(a-2)  The office of inspector general shall operate the incident reporting center for the department under Section 203.014.

(b)  The office of inspector general shall prepare and deliver an investigative [~~a~~] report concerning the results of investigations [~~any investigation~~] conducted under this section to the appropriate prosecutor or regulatory authority having jurisdiction, including:

(1)  the department [~~board~~];

(2)  the appropriate district or county attorney [~~executive director~~];

(3)  [~~any applicable advisory board;~~

[~~(4)  the governor;~~

[~~(5)  the lieutenant governor;~~

[~~(6)  the speaker of the house of representatives;~~

[~~(7)  the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities;~~

[~~(8)~~]  the special prosecution unit;

(4) [~~(9)~~]  the state auditor; and

(5) [~~(10)~~]  any other appropriate state agency responsible for licensing or certifying department employees or facilities.

(c)  The report prepared under Subsection (b) must include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that abuse, neglect, or exploitation, a criminal offense, or delinquent conduct occurred, and a description of the finding. The report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

(d)  The office of inspector general may employ investigators, security officers, and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section. An inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(g)  The chief inspector general shall on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to:

(1)  the board;

(2)  the executive director;

(3)  any applicable advisory board;

(4)  the governor;

(5)  the lieutenant governor;

(6)  the speaker of the house of representatives;

(7)  the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;

(8)  the state auditor; [~~and~~]

(9)  the comptroller; and

(10)  the special prosecution unit.

(h)  A report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and the department shall publish the report on the department's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

(1)  the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;

(2)  the relationship of a victim to a perpetrator, if applicable; [~~and~~]

(3)  the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the department at secure facilities, on parole, or at other placement locations; and

(4)  the final disposition of any complaint received under Section 203.010 related to juvenile probation departments and Section 261.405, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile.

(j)  The department shall ensure that a peace officer commissioned under Subsection (g) is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

SECTION 13.  Sections 221.011, 221.055, and 243.052, Human Resources Code, are repealed.

SECTION 14.  (a)  The classification officer in the office of the state auditor shall classify the position of commissioned peace officer employed by the office of inspector general of the Texas Juvenile Justice Department as a Schedule C position under the Texas Position Classification Plan.

(b)  The change made by the classification officer as required by this section applies beginning with the state fiscal biennium beginning September 1, 2023.

(c)  This section expires September 1, 2025.

SECTION 15.  Section 661.918(a), Government Code, as amended by this Act, applies only to an injury that occurs on or after the effective date of this Act.

SECTION 16.  This Act takes effect September 1, 2023.