

SENATE BILL 380

P1, P2

1lr1868
CF HB 122

By: **Senator Lam**

Introduced and read first time: January 15, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Office of the Inspector General for General Services**

3 FOR the purpose of establishing the Maryland Office of the Inspector General for General
4 Services; providing that the Office is an independent unit of the State; requiring the
5 Office to have access to certain services provided by the Department of General
6 Services; requiring the Office, in consultation with the Department, to develop
7 certain policies and adopt certain regulations; requiring the Office to maintain a
8 certain physical location; requiring the Office to develop certain policies and adopt
9 certain regulations; establishing the Inspector General in the Office; providing for
10 the eligibility, professional qualifications, appointment, term, and removal of the
11 Inspector General; providing for the salary of the Inspector General and funding for
12 the Office; providing for the Inspector General's duties and powers when
13 investigating the management and affairs of the Department; prohibiting the
14 Inspector General from taking certain actions under certain circumstances;
15 authorizing a person to have an attorney present during contact with the Inspector
16 General; providing that a certain circuit court may grant appropriate relief after
17 conducting a certain hearing; providing that certain records produced by the
18 Inspector General are not subject to the Public Information Act; authorizing the
19 Inspector General to appoint and employ certain professional and clerical staff;
20 authorizing the Inspector General, in collaboration with the appropriate authority
21 within the Department, to take necessary steps to recover certain funds paid by or
22 obtained from the Department or a certain person and costs incurred in recovering
23 the funds; requiring the Office, on or before a certain date each year, to submit a
24 certain report to the Secretary of the Department, the Governor, and certain
25 committees of the General Assembly; authorizing the Governor to transfer to the
26 Office certain positions and funds from the Department; requiring that all employees
27 transferred to the Office as a result of this Act be transferred without diminution of
28 their rights, benefits, employment, or retirement status; defining certain terms;
29 providing for a delayed effective date; and generally relating to the Maryland Office
30 of the Inspector General for General Services.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – State Finance and Procurement
3 Section 4–101
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2020 Supplement)

6 BY adding to
7 Article – State Finance and Procurement
8 Section 4–2A–01 through 4–2A–06 to be under the new subtitle “Subtitle 2A.
9 Maryland Office of the Inspector General for General Services”
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2020 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – State Finance and Procurement**

15 4–101.

16 (a) In this title the following words have the meanings indicated.

17 (b) “Department” means the Department of General Services.

18 (c) “Secretary” means the Secretary of General Services.

19 **SUBTITLE 2A. MARYLAND OFFICE OF THE INSPECTOR GENERAL FOR GENERAL**
20 **SERVICES.**

21 **4–2A–01.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 **(B) “INSPECTOR GENERAL” MEANS THE INSPECTOR GENERAL IN THE**
25 **MARYLAND OFFICE OF THE INSPECTOR GENERAL FOR GENERAL SERVICES.**

26 **(C) “OFFICE” MEANS THE MARYLAND OFFICE OF THE INSPECTOR**
27 **GENERAL FOR GENERAL SERVICES.**

28 **4–2A–02.**

29 **(A) THERE IS A MARYLAND OFFICE OF THE INSPECTOR GENERAL FOR**
30 **GENERAL SERVICES.**

1 **(B) THE OFFICE IS AN INDEPENDENT UNIT OF THE STATE.**

2 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE**
3 **SHALL HAVE ACCESS TO THE FOLLOWING SERVICES OF THE DEPARTMENT:**

4 **(I) INFORMATION TECHNOLOGY;**

5 **(II) BUDGET AND FINANCE;**

6 **(III) HUMAN RESOURCES;**

7 **(IV) POLICE;**

8 **(V) PROCUREMENT; AND**

9 **(VI) SUPPORT SERVICES.**

10 **(2) THE OFFICE SHALL, IN CONSULTATION WITH THE DEPARTMENT,**
11 **DEVELOP POLICIES AND ADOPT REGULATIONS REGARDING THE USE AND**
12 **CONFIDENTIALITY OF THE SERVICES LISTED IN PARAGRAPH (1) OF THIS**
13 **SUBSECTION.**

14 **(D) THE OFFICE SHALL:**

15 **(1) MAINTAIN A PHYSICAL LOCATION WITHIN THE DEPARTMENT; AND**

16 **(2) DEVELOP POLICIES AND ADOPT REGULATIONS REGARDING THE**
17 **USE AND CONFIDENTIALITY OF THE LOCATION OF THE OFFICE.**

18 **4-2A-03.**

19 **(A) THERE IS AN INSPECTOR GENERAL IN THE MARYLAND OFFICE OF THE**
20 **INSPECTOR GENERAL FOR GENERAL SERVICES.**

21 **(B) (1) AN INDIVIDUAL IS ELIGIBLE TO BE THE INSPECTOR GENERAL**
22 **ONLY IF THE INDIVIDUAL EXECUTES AN AFFIDAVIT STATING THAT THE INDIVIDUAL**
23 **WILL NOT ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL**
24 **OFFICE:**

25 **(I) DURING THE PERIOD OF SERVICE AS THE INSPECTOR**
26 **GENERAL; AND**

27 **(II) FOR AT LEAST 3 YEARS IMMEDIATELY AFTER THE**

1 INDIVIDUAL LAST SERVES AS THE INSPECTOR GENERAL.

2 (2) THE INSPECTOR GENERAL SHALL RENEW THE AFFIDAVIT EVERY
3 2 YEARS DURING THE PERIOD OF SERVICE.

4 (3) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION
5 SHALL SUBJECT THE INSPECTOR GENERAL TO REMOVAL FROM OFFICE UNDER THIS
6 SECTION.

7 (C) (1) THE INSPECTOR GENERAL SHALL BE APPOINTED UNANIMOUSLY
8 BY THE GOVERNOR, THE ATTORNEY GENERAL, AND THE STATE TREASURER,
9 SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE.

10 (2) THE TERM OF THE INSPECTOR GENERAL IS 5 YEARS, BEGINNING
11 JULY 1 AFTER THE APPOINTMENT OF THE INSPECTOR GENERAL.

12 (3) AT THE END OF A TERM, THE INSPECTOR GENERAL SHALL
13 CONTINUE TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

14 (4) IF A VACANCY OCCURS IN THE OFFICE, AN INTERIM INSPECTOR
15 GENERAL SHALL BE APPOINTED AS SUCCESSOR TO SERVE FOR THE REMAINDER OF
16 THE UNEXPIRED TERM.

17 (D) THE INSPECTOR GENERAL MAY BE REMOVED UNANIMOUSLY BY THE
18 GOVERNOR, THE ATTORNEY GENERAL, AND THE STATE TREASURER FOR:

19 (1) MISCONDUCT IN OFFICE;

20 (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE;
21 OR

22 (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF
23 JUSTICE.

24 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
25 INSPECTOR GENERAL MUST BE PROFESSIONALLY QUALIFIED THROUGH
26 EXPERIENCE OR EDUCATION IN AT LEAST ONE OF THE FOLLOWING AREAS:

27 (I) LAW;

28 (II) AUDITING;

29 (III) GOVERNMENT OPERATIONS, INCLUDING PROCUREMENT,

1 ASSET MANAGEMENT, AND THE ACQUISITION, DISPOSAL, VALUATION, AND LEASING
2 OF REAL PROPERTY BY THE STATE;

3 (IV) FINANCIAL MANAGEMENT; OR

4 (V) CONSTRUCTION DESIGN AND MANAGEMENT.

5 (2) IF THE INSPECTOR GENERAL IS PROFESSIONALLY QUALIFIED IN
6 THE AREA OF CONSTRUCTION DESIGN AND MANAGEMENT, THE INSPECTOR
7 GENERAL ALSO MUST BE PROFESSIONALLY QUALIFIED THROUGH EXPERIENCE OR
8 EDUCATION IN AT LEAST ONE OF THE OTHER AREAS LISTED IN PARAGRAPH (1) OF
9 THIS SUBSECTION.

10 (F) (1) THE INSPECTOR GENERAL IS ENTITLED TO THE SALARY
11 PROVIDED IN THE STATE BUDGET.

12 (2) FUNDING FOR THE OFFICE SHALL BE AS PROVIDED IN THE STATE
13 BUDGET.

14 4-2A-04.

15 (A) THE INSPECTOR GENERAL:

16 (1) MAY INVESTIGATE FRAUD, WASTE, AND ABUSE OF FUNDS IN THE
17 DEPARTMENT;

18 (2) SHALL COORDINATE INVESTIGATIVE EFFORTS WITHIN THE
19 DEPARTMENT AND COOPERATE WITH INVESTIGATIONS BY OTHER UNITS OF STATE
20 GOVERNMENT OR FEDERAL AGENCIES AND, IF A PRELIMINARY INVESTIGATION OF
21 FRAUD, WASTE, AND ABUSE OF FUNDS ESTABLISHES A SUFFICIENT BASIS TO
22 WARRANT REFERRAL, SHALL REFER THE MATTER TO THE APPROPRIATE STATE OR
23 FEDERAL ENFORCEMENT OFFICIALS; AND

24 (3) IN CARRYING OUT THE DUTIES UNDER ITEMS (1) AND (2) OF THIS
25 SUBSECTION, SHALL TAKE STEPS TO ENSURE THAT A PERSON SUBJECT TO THE
26 JURISDICTION OF THE DEPARTMENT IS NOT SUBJECT TO DUPLICATIVE AUDITS.

27 (B) (1) THE INSPECTOR GENERAL MAY NOT DISCLOSE THE IDENTITY OF
28 THE SOURCE OF A COMPLAINT OR INFORMATION PROVIDED UNDER SUBSECTION (A)
29 OF THIS SECTION UNLESS THE INSPECTOR GENERAL:

30 (I) OBTAINS THE WRITTEN CONSENT OF THE SOURCE; OR

1 **(II) DETERMINES THAT DISCLOSURE OF THE IDENTITY OF THE**
2 **SOURCE IS NECESSARY AND UNAVOIDABLE DURING THE COURSE OF THE**
3 **INVESTIGATION.**

4 **(2) IF THE INSPECTOR GENERAL DETERMINES THAT DISCLOSURE OF**
5 **THE IDENTITY OF A SOURCE IS NECESSARY AND UNAVOIDABLE, THE INSPECTOR**
6 **GENERAL SHALL NOTIFY THE SOURCE IN WRITING AT LEAST 7 DAYS BEFORE**
7 **DISCLOSURE.**

8 **(C) (1) (I) DURING AN INVESTIGATION, THE INSPECTOR GENERAL**
9 **MAY:**

10 **1. SEEK AND OBTAIN SWORN TESTIMONY; AND**

11 **2. ISSUE SUBPOENAS AS NECESSARY TO COMPEL THE**
12 **PRODUCTION OF DOCUMENTS AND RECORDS OR THE ATTENDANCE OF WITNESSES.**

13 **(II) A SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE**
14 **ISSUED BY A CIRCUIT COURT.**

15 **(2) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY**
16 **CONTACT WITH THE INSPECTOR GENERAL.**

17 **(3) (I) 1. THE INSPECTOR GENERAL IMMEDIATELY MAY**
18 **REPORT THE FAILURE OF A PERSON TO OBEY A LAWFUL ORDER OR A LAWFULLY**
19 **SERVED SUBPOENA TO THE CIRCUIT COURT OF THE COUNTY THAT HAS**
20 **JURISDICTION.**

21 **2. THE INSPECTOR GENERAL SHALL PROVIDE A COPY**
22 **OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

23 **(II) AFTER CONDUCTING A HEARING, THE CIRCUIT COURT MAY**
24 **GRANT APPROPRIATE RELIEF.**

25 **(D) RECORDS OR INFORMATION PROVIDED TO, PREPARED FOR, OR**
26 **OBTAINED BY THE INSPECTOR GENERAL IN CONNECTION WITH AN INVESTIGATION**
27 **ARE CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC**
28 **INFORMATION ACT.**

29 **(E) THE INSPECTOR GENERAL MAY APPOINT AND EMPLOY PROFESSIONAL**
30 **AND CLERICAL STAFF, INCLUDING ATTORNEYS, ACCOUNTANTS, AUDITORS,**
31 **ANALYSTS, AND INVESTIGATORS, AS APPROPRIATED IN THE ANNUAL STATE**
32 **BUDGET, TO CONDUCT THE WORK OF THE OFFICE.**

1 4-2A-05.

2 THE INSPECTOR GENERAL, IN COLLABORATION WITH THE APPROPRIATE
3 AUTHORITY WITHIN THE DEPARTMENT, MAY TAKE NECESSARY STEPS TO RECOVER:

4 (1) FUNDS MISTAKENLY OR FRAUDULENTLY PAID BY OR OBTAINED
5 FROM THE DEPARTMENT OR A PERSON SUBJECT TO THE JURISDICTION OF THE
6 DEPARTMENT; AND

7 (2) ANY COSTS INCURRED IN RECOVERING THE FUNDS DESCRIBED IN
8 ITEM (1) OF THIS SECTION.

9 4-2A-06.

10 (A) ON OR BEFORE DECEMBER 1 EACH YEAR, THE OFFICE SHALL SUBMIT A
11 REPORT TO THE SECRETARY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1257
12 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION
13 COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS
14 COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND
15 GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION
16 COMMITTEE.

17 (B) THE REPORT SHALL INCLUDE INFORMATION ON:

18 (1) THE OFFICE'S ACTIVITIES DURING THE IMMEDIATELY
19 PRECEDING FISCAL YEAR, INCLUDING:

20 (I) INVESTIGATIONS OF FRAUD, WASTE, AND ABUSE OF
21 DEPARTMENTAL FUNDS UNDERTAKEN BY THE OFFICE, INCLUDING SPECIFIC
22 FINDINGS AND RECOMMENDATIONS RELATED TO THE INVESTIGATIONS;

23 (II) A SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL
24 AUTHORITIES AND THE RESULTING PROSECUTIONS AND CONVICTIONS; AND

25 (III) COMPLIANCE WITH APPLICABLE FEDERAL AND STATE
26 LAWS; AND

27 (2) ANY REGULATORY OR STATUTORY CHANGES NECESSARY TO
28 ENSURE COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor may transfer
30 positions and funds appropriated for the positions from the Department of General Services
31 to the Maryland Office of the Inspector General for General Services established under

1 Section 1 of this Act.

2 SECTION 3. AND BE IT FURTHER ENACTED, That all employees who are
3 transferred to the Maryland Office of the Inspector General for General Services as a result
4 of this Act shall be transferred without diminution of their rights, benefits, employment, or
5 retirement status.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2022.