



AB-1185 County board of supervisors: sheriff oversight. (2019-2020)

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AMENDED IN SENATE JULY 28, 2020

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

NO. 1185

Introduced by Assembly Member McCarty
(Principal coauthor: Senator Mitchell)
(Coauthors: Assembly Members Burke, Gipson, and Holden)

February 21, 2019

An act to add Section 25303.7 to the Government Code, relating to counties.

LEGISLATIVE COUNSEL'S DIGEST

AB 1185, as amended, McCarty. ~~Officer oversight: sheriff oversight board.~~ *County board of supervisors: sheriff oversight.*

Existing law establishes the office of the sheriff in each county to preserve peace, and authorizes the sheriff to sponsor, supervise, or participate in any project of crime prevention, rehabilitation of persons previously convicted of crime, or the suppression of delinquency. Existing law requires a board of supervisors to supervise the official conduct of all county officers and ensure that they faithfully perform their duties.

This bill would authorize a county to establish a sheriff oversight ~~board,~~ *board to assist the board of supervisors with those duties as they relate to the sheriff,* either by action of the board of supervisors or through a vote of county residents. ~~The bill would authorize a sheriff oversight board to issue a subpoena or subpoena duces tecum when deemed necessary to investigate a matter within the jurisdiction of the board. The~~

This bill would authorize a county county, either by action of the board of supervisors or through a vote of county residents, to establish an office of the inspector general to assist the board of supervisors with its supervisory duties, as provided: these duties as they relate to the sheriff.

The bill would authorize the chair of the oversight board and the inspector general to issue a subpoena or subpoena duces tecum when deemed necessary to investigate a matter within their jurisdiction.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) County sheriffs lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. These officers are also responsible for the safety and welfare of the more than 75,000 incarcerated individuals in California's jail system. Misuse of these authorities can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest.~~

~~(b) While sheriffs are independently elected officials, boards of supervisors have the authority to supervise these officials and investigate the performance of their duties and have an obligation to ensure sheriffs and their departments uphold and respect people's constitutional rights.~~

~~(c) Meaningful independent oversight and monitoring of sheriffs' departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must have the authority and independence necessary to conduct credible and thorough investigations.~~

~~(d) It is the intent of the Legislature in adding this section to the Government Code to ensure that every county in the state may adopt effective independent oversight of the sheriff of that county, and this section is not intended to limit the powers of any independent oversight entity.~~

SEC. 2. SECTION 1. Section 25303.7 is added to the Government Code, to read:

25303.7. (a) (1) A county may create a sheriff oversight board, either by action of the board of supervisors or through a vote of county residents, comprised of civilians to assist ~~in the board's supervisorial duties over the sheriff.~~ *the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.*

(2) The members of the sheriff oversight board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the board.

(b) (1) The chair of the sheriff oversight board shall issue a subpoena or subpoena duces tecum in accordance with Sections 1985 to 1985.4, inclusive, of the Code of Civil Procedure whenever the board deems it necessary or important to examine the following:

(A) Any person as a witness upon any subject matter within the jurisdiction of the board.

(B) Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.

(C) Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.

(2) A subpoena shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure.

(3) (A) If a witness fails to attend, or in the case of a subpoena duces tecum, if an item is not produced as set forth therein, the chair or the chair authorized deputy issuing the subpoena upon proof of service thereof may certify the facts to the superior court in the county of the board.

(B) The court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall be served on the person and the court shall have jurisdiction of the matter.

(C) The same proceedings shall be had, the same penalties imposed, and the person charged may purge himself of the contempt in the same way as in a case of a person who has committed a contempt in the trial of a civil action before a superior court.

(c) (1) A county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its ~~supervisorial duties over the sheriff.~~ *duties required pursuant to Section 25303 that relate to the sheriff.*

(2) The inspector general shall have the independent authority to issue a subpoena or subpoena duces tecum subject to the procedure provided in subdivision (b).

(d) The exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.