

ASSEMBLY BILL

No. 1185

Introduced by Assembly Member McCarty

February 21, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1185, as introduced, McCarty. Officer oversight: sheriff oversight board.

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, 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 bill would authorize a county to establish an office of the inspector general to assist the board with its supervisory duties, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated 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 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 supervisory duties over 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

1 1985 to 1985.4, inclusive, of the Code of Civil Procedure whenever
2 the board deems it necessary or important to examine the following:

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

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

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

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

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

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

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

27 (c) (1) A county, through action of the board of supervisors or
28 vote by county residents, may establish an office of the inspector
29 general, appointed by the board of supervisors, to assist the board
30 of supervisors with its supervisory duties over the sheriff.

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

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

O