

HOUSE No. 4

So much of the recommendations of the Inspector General (House, No. 3) as relates to Chapter 12A, the Office of the Inspector General. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to Chapter 12A.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 9 of chapter 12A of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting at the end of the first paragraph the following:-

3 The inspector general shall have access under this paragraph notwithstanding any other
4 provision of law, except pursuant to any provision of law enacted by the general court that
5 expressly (i) refers to the inspector general; and (ii) limits the right of access of the inspector
6 general.

7 SECTION 2. Said section 9 of said chapter 12A, as so appearing, is hereby amended by
8 inserting after the fifth paragraph, the following new paragraph:-

9 The inspector general may require answers to written interrogatories, in writing and
10 under oath, relevant to any matter under audit or investigation pursuant to the provisions of this
11 chapter, except records under the provisions of section 18 of chapter 66 as defined in section 3 of
12 said chapter 66. Each written interrogatory served under this section shall be answered separately
13 and fully in writing under the penalties of perjury, unless it is specifically objected to, in which

14 event the reasons for objection shall be stated in lieu of the answer; each answer or objection
15 shall be preceded by the interrogatory to which it responds. The answers shall be signed by the
16 person making them under the pains and penalties of perjury, the objections shall be signed by
17 the person or attorney making them. The person upon whom the interrogatories have been served
18 shall serve the answers and objections, if any, upon the inspector general within 14 calendar days
19 after service of the interrogatories. Any reason for objection not stated in a timely objection is
20 waived unless a court, for good cause, excuses the failure.

21 SECTION 3. Said section 9 of said chapter 12A, as so appearing, is hereby amended by
22 striking out the seventh paragraph and inserting in place thereof the following paragraph:-

23 Such interrogatories and summons shall be served in the same manner as interrogatories
24 and a summons for the production of documents in civil cases issued on behalf of the
25 commonwealth, and all provisions of law relative to said interrogatories and summons shall
26 apply to interrogatories and a summons issued pursuant to this chapter. Any justice of the
27 superior court department in the trial court may, upon application by the inspector general, issue
28 an order to compel answers to interrogatories, or the production of records, reports, audits,
29 reviews, papers, books, documents, recommendations, correspondence and any other data and
30 material as aforesaid, or both, in the same manner and to the same extent as before said superior
31 court department. Any failure to obey such order may be punished by said court as contempt.

32 SECTION 4. Said section 9 of said chapter 12A, as so appearing, is hereby amended by
33 inserting after the eighth paragraph, the following paragraph:-

34 The production of records, reports, audits, reviews, papers, books, documents,
35 recommendations, correspondence, including information relative to the purchase of services or
36 anticipated purchase of services from any contractor by any public body, and any other data and
37 material in response to a request or summons under this chapter shall be made under the pains
38 and penalties of perjury on a form prescribed by the inspector general.

39 SECTION 5. Section 10 of said chapter 12A, as so appearing, is hereby amended by
40 striking out, in line 3, the words “or both” and inserting in place thereof the following words:-
41 “the appropriate district attorney, or any combination thereof”.

42 SECTION 6. Said section 10 is hereby further amended by inserting, after the words
43 “attorney general”, in line 5, the following words:- “or district attorney”.

44 SECTION 7. Section 14 of said chapter 12A, as so appearing, is hereby amended by
45 striking out, in line 2, the words “public employee” and inserting in place thereof the following
46 word:- “source”.

47 SECTION 8. Said section 14 of said chapter 12A, as so appearing, is hereby further
48 amended by striking out subsection (b) and inserting in place thereof the following subsection:

49 (b) The inspector general shall not, after receipt of a complaint or information from a
50 complainant or informant, disclose the identity of the complainant or informant without the
51 written consent of said complainant or informant, unless the inspector general determines such
52 disclosure is necessary and unavoidable during the course of the investigation. In such event, the
53 complainant or informant shall be notified in writing at least 7 days prior to such disclosure.

54 SECTION 9. Said section 14 of said chapter 12A, as so appearing, is hereby further
55 amended by striking out subsection (c) and inserting in place thereof the following paragraph:-

56 (c) Any person who has authority to take, direct others to take, recommend, or approve
57 any personnel action, shall not, with respect to such authority, take or threaten to take any action
58 against any complainant or informant as a reprisal for making a complaint or disclosing
59 information to the inspector general, unless the complaint was made or the information disclosed
60 with the knowledge that it was false or with willful disregard for its truth or falsity. Any person
61 who willfully violates this subsection shall be punished by a fine of not more than \$10,000. In
62 addition, any person who takes such prohibited action against a complainant or informant may be

63 liable to that complainant or informant for treble damages, costs and attorneys' fees. Any penalty
64 or liability imposed under this subsection shall not bar the imposition of any applicable criminal
65 penalty, including but not limited to, a penalty for a violation of section 13B of chapter 268.

66 SECTION 10. Section 15 of said chapter 12A, as so appearing, is hereby amended by
67 striking out the sixth paragraph and inserting in place thereof the following paragraph:-

68 A person summonsed to attend and testify under oath shall appear and testify under oath
69 before the inspector general or an employee of the office who is an attorney admitted to practice
70 in the commonwealth and approved by the inspector general council. A member of the inspector
71 general council, or a designee of a member, may be present at the request of the inspector
72 general.