

1                   A bill to be entitled  
2                   An act relating to Monroe County; specifying  
3                   rights of members of the classified service of  
4                   the Monroe County Sheriff's Office; providing  
5                   procedures for appeal of disciplinary actions  
6                   against members; providing for the appointment  
7                   of boards to hear appeals and procedures with  
8                   respect thereto; providing a procedure for  
9                   transition upon the expiration of a sheriff's  
10                  term; repealing chapters 89-410 and 89-461,  
11                  Laws of Florida; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15                  Section 1. (1) APPLICABILITY.--The terms of this act  
16 shall apply to the "classified service" of the Monroe County  
17 Sheriff's Office, which shall include all Certified Deputy  
18 Sheriffs, Certified Correctional Officers, and Noncertified  
19 Support Staff of the Monroe County Sheriff's Office. The  
20 provisions of this act shall not include the Sheriff or  
21 Undersheriff, Finance Director, Human Resource Director,  
22 Information Management Director, General Counsel, personnel  
23 holding the rank of Captain or above, contract personnel,  
24 nonsalaried personnel, any Special Duty Sheriff appointed  
25 pursuant to s. 30.09(4), Florida Statutes, members of the  
26 Sheriff's Posse or Auxiliary Unit, or any person appointed as  
27 a part-time Deputy Sheriff, as defined by the Criminal Justice  
28 Standards and Training Commission, unless such person is also  
29 employed on a full-time basis by the Office of the Sheriff. It  
30 is not, however, the intent of this act to grant the right of  
31 collective bargaining to persons in the employ of the Monroe

1 County Sheriff's Office who do not otherwise have the right  
2 pursuant to law or an expectation of continued employment  
3 except as otherwise expressly stated herein.

4 (2) PROBATIONARY STATUS AFTER HIRING AND PROMOTION.--

5 (a) After a member of the classified service of the  
6 Sheriff's Office has been employed for a period of one  
7 calendar year, the member shall have attained permanent status  
8 in the office of the sheriff and shall be entitled to appeal  
9 disciplinary action as set forth herein. However, if any  
10 member separates from the office and is rehired at a later  
11 date, the member shall be required to complete one calendar  
12 year of service from the date of separation before being  
13 granted the right of appeal herein.

14 (b) When a member is promoted to a higher rank within  
15 the office, there shall be a probationary period of six  
16 consecutive months of service in the higher position. In the  
17 event that the member does not satisfactorily complete the  
18 promotional probation, the member shall be returned to the  
19 ranks from which the member was promoted, provided that the  
20 member was regularly appointed to said position.

21 (3) RIGHT OF APPEAL.--Any member of the classified  
22 service as defined in section 1 hereof shall have the right to  
23 appeal any suspension without pay for a period of more than 40  
24 hours, demotion or termination, provided however, that there  
25 shall be no right of appeal hereunder when the suspension,  
26 demotion or termination is based upon conduct for which  
27 probable cause exists to believe that a felony under the law  
28 of the United States of America or the State of Florida, or  
29 misdemeanor involving perjury, false statement or controlled  
30 substance has been committed.

31

1           4(a) PROCEDURE FOR APPEALS.--The appeal shall be to  
2 the Disciplinary Review Board, consisting of five members, all  
3 of whom shall be members of the classified service of the  
4 Monroe County Sheriff's Office. The board shall be selected as  
5 follows:

6           1. The appealing member shall select two members;

7           2. The Sheriff shall select two additional members;

8 and

9           3. The four members thus selected shall select, by  
10 majority vote, a fifth member who shall serve as chairperson.

11           4. None of the board members shall be involved in the  
12 investigation of, a witness to, or involved with the  
13 disciplinary procedure that is cause for this appeal, nor  
14 shall any board member be a family member of the appealing  
15 member or the sheriff.

16           (b) Any member desiring to appeal any disciplinary  
17 action described in subsection (3), must deliver written  
18 intent of his or her intent to do so to the Sheriff, his or  
19 her Executive Assistant, or the Undersheriff within ten  
20 calendar days after receiving written notice of the  
21 disciplinary decision. The notice must contain the names of  
22 the member's two appointments to the Disciplinary Review Board  
23 and a brief statement of the reasons for the appeal.

24           (c) The Sheriff must appoint his or her  
25 representatives to the Board within five calendar days after  
26 receipt of the member's notice of appeal described above.

27           (d) The four appointees to the Board must select by  
28 majority vote, a fifth person who shall serve as chairperson.  
29 The Board must set a place, date and time for the hearing  
30 within ten calendar days after receipt of the Sheriff's  
31 selection of his representatives. The hearing must be

1 conducted within thirty days of the selection of the  
2 chairperson, unless a four-fifths majority of the board agrees  
3 to a later date.

4 (d) If a chairperson is not selected within ten  
5 calendar days after the appeal is requested, the four  
6 appointees shall notify the Sheriff, who shall furnish a list  
7 of fifteen names of members of the classified service chosen  
8 at random. The four appointees shall, within five days of  
9 receipt of the list, vote in turn on each of the fifteen named  
10 members. The first selected by majority vote shall serve as  
11 chairperson.

12 (e) In the event the appealing member or the Sheriff  
13 wishes to challenge the appointment of one of the Board  
14 members for reasons specified in subsection (4)4.:

15 1. The challenging party must, within five calendar  
16 days of the first appointment of the Board members, present a  
17 written objection to the Human Resources Division.

18 2. The appointed Board members shall be advised of the  
19 objection, and the rest of Board shall, within five calendar  
20 days of being so advised, consider the objections and vote on  
21 whether to retain or dismiss the challenged Board member. The  
22 challenged member may not vote on the challenge to his or her  
23 appointment. The challenge shall be decided by a majority  
24 vote. The vote may be conducted in writing, by conference  
25 call, electronic mail, or through any other method approved by  
26 the Board.

27 3. Upon a decision to dismiss a Board member, the  
28 challenged member shall be removed and the remaining members  
29 of the Board shall appoint a successor, who must be a member  
30 of the classified service.

31 (5) CONDUCT OF APPEALS HEARINGS.--

1       (a) The hearing shall be open to the public and  
2 conducted by the chairperson.

3       (b) The hearing shall be conducted in a manner to  
4 assure fundamental fairness, although the formal rules of  
5 evidence shall not apply.

6       (c) The Sheriff has the burden of proving the  
7 appropriateness of the disciplinary action by the  
8 preponderance of the evidence. The Sheriff or his designee may  
9 present the case. If a designee presents the case for the  
10 Sheriff, he or she must be a member of the classified service.

11       (d) The appealing member shall have the right to  
12 present his or her own case, to explain or defend his or her  
13 position, and to cross-examine each witness or complainant.

14       (e) The appealing member may have the assistance of  
15 one person chosen from the classified service to assist in the  
16 presentation. This representative may examine or cross-examine  
17 witnesses, address the board, or present argument. The member  
18 may have others to assist in the preparation, but these  
19 persons may not examine or cross-examine witnesses, address  
20 the board, or present argument.

21       (f) The Sheriff shall require the presence at the  
22 hearing of any member of the office who the appealing member  
23 desires to question or present evidence.

24       (g) The Sheriff or appealing member may offer rebuttal  
25 evidence, and the board may hear argument from both parties in  
26 support of their positions.

27       (h) At the conclusion of the hearing the Board shall  
28 retire to consider its decision. The decision must be made by  
29 a majority vote of its members.

30       (i) The decision shall be in writing and shall be  
31 rendered within three calendar days after the conclusion of

1 the hearing. This period may be extended by a majority vote  
2 of the Board. The decision to extend the time for deciding  
3 appeals shall be in writing.

4 (j) The Board may accept, reject, increase or decrease  
5 the disciplinary recommendation that was the cause for the  
6 appeal.

7 (k) The Board's decision shall be final and binding  
8 upon the Sheriff and the appealing member.

9 (6) AVAILABILITY OF NON-BINDING BOARD; FAVORABLE  
10 RESOLUTION OF MATTERS INVOLVING CRIMINAL CONDUCT.--

11 (a) In the event that a member of the classified  
12 service is disciplined as described in subsection (3) but is  
13 not entitled to an appeal as set forth therein due to the  
14 existence of probable cause that criminal conduct has  
15 occurred, he or she shall nonetheless be entitled to have the  
16 disciplinary action reviewed in the manner set forth in this  
17 section.

18 (b) Within ten calendar days of the final resolution  
19 by acquittal, dismissal, or filing by the prosecuting  
20 authority of decision not to file charges, the appealing  
21 member shall notify the Sheriff in the manner set forth in  
22 subsection (4).

23 (c) The procedure shall thereafter be as set forth in  
24 subsection (4) except that the Board's decision shall not be  
25 binding upon the Sheriff but advisory only.

26 (7) CONTINUED APPOINTMENT.--When a newly elected or  
27 appointed Sheriff assumes office, the service of all personnel  
28 shall continue without necessity of formal reappointment. The  
29 incoming Sheriff shall have the option of maintaining the  
30 current personnel assigned to the rank of Captain and above or  
31 equivalent noncertified support positions or transferring

1 those personnel as described below. If the incoming Sheriff  
2 fills any of the above positions with a new person, the former  
3 holder of that position may be reduced in the rank to a  
4 position no lower than lieutenant or equivalent noncertified  
5 support position, and his or her salary reduced accordingly.  
6 Any member demoted pursuant to this subsection shall be a  
7 member of the classified service immediately upon the  
8 assumption of the new position.

9 (8) POSITION ELIMINATION.--Nothing in this act shall  
10 prohibit the Sheriff from eliminating positions in the course  
11 of submitting the annual budget as required by s. 30.49,  
12 Florida Statutes. Any position so eliminated may not be  
13 replaced during the following fiscal year. The elimination of  
14 positions shall be made with due regard to the seniority of  
15 members of the Sheriff's Office.

16 Section 2. Chapters 89-4-9 and 89-460, Laws of  
17 Florida, are repealed.

18 Section 3. This act shall take effect upon becoming a  
19 law.