

By Representative Putnam

1 A bill to be entitled
2 An act relating to the Department of Juvenile
3 Justice; amending s. 20.316, F.S.; requiring
4 the Secretary of Juvenile Justice to appoint an
5 inspector general; providing duties of the
6 Office of Inspector General; providing for the
7 Office of Inspector General to have
8 unrestricted access to employees and to
9 records, documents, and other materials that
10 relate to programs operated by the department
11 or operated by a private entity, county or
12 municipal government, or law enforcement agency
13 under a contract with the department;
14 authorizing the department to cancel the
15 contract of an entity that fails to timely
16 provide information upon request; authorizing
17 the inspector general to administer oaths and
18 issue affidavits; authorizing the inspector
19 general to investigate complaints; specifying
20 circumstances under which an employee of the
21 department, or an employee of a provider under
22 contract with the department, may apply
23 physical force upon a juvenile offender;
24 requiring the Juvenile Justice Standards and
25 Training Commission to teach methods of
26 applying authorized physical force; requiring
27 that a health care provider examine persons
28 involved in an incident in which physical force
29 was used; requiring a report; requiring a
30 physician to examine any noticeable physical
31 injury; requiring an employee who applies

1 physical force, or who makes a decision to
2 apply physical force, to prepare a report;
3 providing for review of such report by the
4 superintendent or program director; requiring
5 that the report be forwarded to the district
6 juvenile justice manager and the inspector
7 general; providing requirements for maintaining
8 reports on the use of physical force; defining
9 the term "sexual misconduct"; providing that it
10 is a second-degree felony for an employee to
11 engage in sexual misconduct with a juvenile
12 offender detained or supervised by the
13 department; providing certain exceptions;
14 prohibiting the employment of any person who
15 has engaged in sexual misconduct with a
16 juvenile offender; requiring an employee who
17 witnesses unlawful abuse or sexual misconduct,
18 or who has reason to suspect that unlawful
19 abuse or sexual misconduct has been committed,
20 to report such incident to the inspector
21 general, facility superintendent, and district
22 juvenile justice manager; providing that it is
23 a first-degree misdemeanor to fail to make a
24 report as required or to submit inaccurate or
25 untruthful information; providing that it is a
26 third-degree felony to coerce or threaten
27 another person to alter testimony or a report
28 with respect to an incident of force or sexual
29 misconduct; prohibiting the introduction,
30 removal, or possession of contraband articles
31 on the grounds of a juvenile detention facility

1 or other commitment program; specifying
2 articles that are contraband; providing
3 penalties; providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. Subsection (7) is added to section 20.316,
8 Florida Statutes, 1996 Supplement, to read:

9 20.316 Department of Juvenile Justice.--There is
10 created a Department of Juvenile Justice.

11 (7) OFFICE OF INSPECTOR GENERAL.--

12 (a) The secretary shall appoint an inspector general
13 as provided in s. 20.055. The Office of Inspector General
14 shall:

15 1. Conduct internal investigations of all departmental
16 entities, including any program operated by the department or
17 operated under a contract with a private entity, county or
18 municipal government, or law enforcement agency.

19 2. Conduct financial and compliance audits of all
20 departmental entities, including any program operated by the
21 department or operated under a contract with a private entity,
22 county or municipal government, or law enforcement agency.

23 3. Audit electronic data processing.

24 4. Conduct background screening of employees, or
25 prospective employees, in accordance with ss. 39.001 and
26 39.076.

27 5. Operate the department's hotline for reporting
28 incidents.

29 (b) In carrying out the duties specified in this
30 subsection and s. 20.055, the Office of Inspector General
31 shall have unrestricted access to all employees, and to all

1 records, files, reports, audits, reviews, documents, papers,
2 recommendations, and other materials that relate to the
3 administration of juvenile justice programs operated by the
4 department or operated under a contract with a private entity,
5 county or municipal government, or law enforcement agency. The
6 department may cancel the contract of an entity that fails to
7 provide requested information or documentation in a timely
8 manner.

9 (c) The inspector general, or a person designated by
10 the inspector general, may administer oaths or affirmations
11 and issue affidavits in performing the functions assigned to
12 the inspector general in order to obtain documents or
13 information from an employee of a private entity, county or
14 municipal government, or law enforcement agency under contract
15 with the department.

16 (d) The inspector general may receive and investigate
17 any complaint or information by an employee of the department,
18 or an employee of an entity under contract with the
19 department, which concerns the possible existence of an
20 activity that constitutes a violation of law or rules,
21 mismanagement, a gross waste of funds, abuse of authority, or
22 a substantial and specific danger to public health and safety.

23 Section 2. Authorized use of force; sexual misconduct
24 prohibited; reporting required; penalties.--

25 (1)(a) An employee of the Department of Juvenile
26 Justice, or an employee of a provider under contract with the
27 department, may apply physical force upon a juvenile offender
28 only when and to the extent that it reasonably appears
29 necessary to:

30 1. Defend himself, herself, or another against
31 imminent use of unlawful force.

1 2. Prevent a juvenile offender from escaping from a
2 juvenile detention facility or other residential commitment
3 program, as described in section 39.01, Florida Statutes, if
4 the employee reasonably believes that the juvenile offender is
5 lawfully detained.

6 3. Prevent damage to property.

7 4. Quell a disturbance or riot.

8 5. Overcome physical resistance to a lawful command.

9 6. Administer medical treatment. However, medical
10 treatment may only be administered by, or under the
11 supervision of, a physician or his or her designee, and only
12 if treatment is:

13 a. Necessary to protect the health or safety of other
14 persons, as in the case of a contagious or venereal disease.

15 b. Offered in satisfaction of a duty to protect the
16 juvenile offender against self-inflicted injury or death.

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18 As part of the juvenile justice training program, the Juvenile
19 Justice Standards and Training Commission shall develop a
20 course specifically designed to explain the parameters of this
21 paragraph and teach the proper methods and techniques of
22 applying authorized physical force upon a juvenile offender.

23 (b) Following any use of physical force, a qualified
24 health care provider shall examine any person physically
25 involved in the incident to determine the extent of injury, if
26 any, and shall prepare a report that must include, but need
27 not be limited to, a statement of whether further examination
28 by a physician is necessary. A physician shall examine any
29 noticeable physical injury and prepare a report that documents
30 the extent and probable cause of the injury and the treatment
31 prescribed.

1 (2) An employee of the Department of Juvenile Justice,
2 or an employee of a provider under contract with the
3 department, who applies physical force upon a juvenile
4 offender, or who makes a decision to apply such physical
5 force, shall prepare, date, and sign an independent report
6 within 24 hours after the incident occurs. The report must be
7 delivered to the superintendent or program director, who shall
8 conduct an inquiry and approve or disapprove the force used.
9 The employee's report, together with the superintendent's or
10 program director's written approval or disapproval of the
11 force used and the reasons therefor, shall be forwarded within
12 48 hours after the date of the completion of the inquiry to
13 the district juvenile justice manager and the department's
14 inspector general. The district juvenile justice manager
15 shall, in writing, approve or disapprove the evaluation by the
16 superintendent or program director and forward a copy of the
17 approval or disapproval to the inspector general. Copies of
18 the employee's report, the evaluation by the superintendent or
19 program director, and the review by the district juvenile
20 justice manager shall be kept in the file of the juvenile
21 offender. The superintendent or program director shall
22 maintain for 3 years a separate file on all reports of the use
23 of force.

24 (3) Unless specifically provided in this section, the
25 reports and timeframes for filing reports required by this
26 section are subject to department policy.

27 (4)(a)1. As used in this subsection, the term:
28 a. "Sexual misconduct" means fondling the genital
29 area, groin, inner thighs, buttocks, or breasts of a person;
30 the oral, anal, or vaginal penetration by or union with the
31 sexual organ of another; or the anal or vaginal penetration of

1 another by any other object. The term does not include an act
2 done for a bona fide medical purpose or an internal search
3 conducted in the lawful performance of duty by an employee of
4 the department or an employee of a provider under contract
5 with the department.

6 b. "Employee" includes paid staff members, volunteers,
7 and interns who work in a department program or a program
8 operated by a provider under a contract.

9 2. An employee who engages in sexual misconduct with a
10 juvenile offender detained or supervised by, or committed to
11 the custody of, the department, commits a felony of the second
12 degree, punishable as provided in section 775.082, section
13 775.083, or section 775.084, Florida Statutes. An employee may
14 be found guilty of violating this subsection without having
15 committed the crime of sexual battery.

16 3. The consent of the juvenile offender to any act of
17 sexual misconduct is not a defense to prosecution under this
18 subsection.

19 4. This subsection does not apply to an employee of
20 the department, or an employee of a provider under contract
21 with the department, who:

22 a. Is legally married to a juvenile offender who is
23 detained or supervised by, or committed to the custody of, the
24 department.

25 b. Has no reason to believe that the person with whom
26 the employee engaged in sexual misconduct is a juvenile
27 offender detained or supervised by, or committed to the
28 custody of, the department.

29 (b) Notwithstanding prosecution, any violation of this
30 subsection, as determined by the Public Employees Relations
31 Commission, constitutes sufficient cause under section

1 110.227, Florida Statutes, for dismissal from employment with
2 the department, and such person may not again be employed in
3 any capacity in connection with the juvenile justice system.

4 (5) An employee of the department, or an employee of a
5 provider under contract with the department, who witnesses
6 unlawful abuse or sexual misconduct committed against a
7 juvenile offender, or who has reasonable cause to suspect that
8 unlawful abuse or sexual misconduct has been committed against
9 a juvenile offender, shall immediately report the incident to
10 the department's incident hotline, and prepare, date, and sign
11 an independent report that specifically describes the nature
12 of the abuse or sexual misconduct, the location and time of
13 the incident, and the persons involved. The employee shall
14 deliver the report to the department's inspector general and
15 provide copies of the report to the superintendent or program
16 director and the district juvenile justice manager. The
17 inspector general shall immediately conduct an appropriate
18 administrative investigation, and, if there is probable cause
19 to believe that a violation of subsection (1) or subsection
20 (4) has occurred, the inspector general shall notify the state
21 attorney in the circuit in which the incident occurred.

22 (6)(a) Any person who is required to prepare a report
23 under this section and who knowingly or willfully fails to do
24 so, or who knowingly or willfully prevents another person from
25 doing so, commits a misdemeanor of the first degree,
26 punishable as provided in section 775.082 or section 775.083,
27 Florida Statutes.

28 (b) Any person who knowingly or willfully submits
29 inaccurate, incomplete, or untruthful information with respect
30 to a report required under this section, commits a misdemeanor
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1 of the first degree, punishable as provided in section 775.082
2 or section 775.083, Florida Statutes.

3 (c) Any person who knowingly or willfully coerces or
4 threatens any other person with the intent to alter testimony
5 or a written report regarding an incident where force was used
6 or an incident of sexual misconduct, commits a felony of the
7 third degree, punishable as provided in section 775.082,
8 section 775.083, or section 775.084, Florida Statutes.

9 Section 3. Introduction, removal, or possession of
10 certain articles unlawful; penalty.--

11 (1)(a) Except through regular channels as authorized
12 by the facility superintendent, program director, or manager,
13 a person may not introduce into or upon the grounds of a
14 juvenile detention facility or other commitment program, or
15 take or send, or attempt to take or send, from a juvenile
16 detention facility or other commitment program, any of the
17 following articles, which are declared to be contraband under
18 this section:

19 1. Any article of food or clothing given or
20 transmitted, or intended to be given or transmitted, to any
21 juvenile offender in a juvenile detention facility or other
22 commitment program.

23 2. Any intoxicating beverage or any beverage that
24 causes or may cause an intoxicating effect.

25 3. Any controlled substance, as defined in section
26 893.02(4), Florida Statutes, or any prescription or
27 nonprescription drug that has a hypnotic, stimulating, or
28 depressing effect.

29 4. Any firearm or weapon of any kind or any explosive
30 substance.

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1 (b) A person may not transmit contraband to, cause
2 contraband to be transmitted to or received by, attempt to
3 transmit contraband to, or attempt to cause contraband to be
4 transmitted to or received by, a juvenile offender inside or
5 outside the grounds of a juvenile detention facility or other
6 commitment program, except through regular channels as
7 authorized by the facility superintendent, program director,
8 or manager.

9 (c) A juvenile offender or any person, while upon the
10 grounds of a juvenile detention facility or other commitment
11 program, may not be in actual or constructive possession of
12 any article or thing declared to be contraband under this
13 section, except as authorized by the facility superintendent,
14 program director, or manager.

15 (2) Any person who violates this section as it
16 pertains to an article of contraband described in subparagraph
17 (1)(a)1., commits a felony of the third degree, punishable as
18 provided in section 775.082, section 775.083, or section
19 775.084, Florida Statutes. In all other cases, a person who
20 violates this section commits a felony of the second degree,
21 punishable as provided in section 775.082, section 775.083, or
22 section 775.084, Florida Statutes.

23 Section 4. This act shall take effect October 1, 1997.
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SENATE SUMMARY

Creates the Office of Inspector General within the Department of Juvenile Justice. Provides for the inspector general to have unrestricted access to employees and to records and other materials that relate to juvenile justice programs operated by the department or operated under a contract with a private entity, county or municipal government, or law enforcement agency. Authorizes the inspector general to investigate complaints. Authorizes an employee of the department or of a provider to apply physical force upon a juvenile offender under certain circumstances. Provides requirements for examinations and reports following the use of physical force. Provides that it is a second-degree felony for an employee to engage in sexual misconduct with a juvenile offender. Requires an employee who witnesses, or suspects the occurrence of, unlawful abuse or sexual misconduct to report such incident. Provides penalties for failing to properly prepare required reports or for submitting inaccurate information. Prohibits the introduction, removal, or possession of contraband within a juvenile detention facility or other commitment program. Specifies the articles that constitute contraband. Provides penalties for introducing, removing, or possessing contraband while on the grounds of a juvenile detention facility or other commitment program. (See bill for details.)