

By Senator Saunders

25-853-01

See HB

1 A bill to be entitled
2 An act relating to correctional officers;
3 creating s. 943.105, F.S.; creating the "Job
4 Protection for Correctional Officers Act";
5 providing for certain employment appeals to a
6 complaint review board; providing for a
7 definition of just cause; providing for the
8 creation of ad hoc complaint review boards;
9 providing for the function of such boards;
10 providing for membership; providing procedures
11 with respect to appeals; providing an effective
12 date.

14 Be It Enacted by the Legislature of the State of Florida:

16 Section 1. Section 943.105, Florida Statutes, is
17 created to read:

18 943.105 Job Protection for Correctional Officers Act;
19 appeals; complaint review board; procedures.--

20 (1) Short title.--This section may be cited as the
21 "Job Protection for Correctional Officers Act."

22 (2) Notwithstanding any other provision of the law to
23 the contrary, in lieu of using any career service procedure or
24 protection in effect on January 1, 2001, a non-probationary
25 correctional officer of the rank of captain or below as
26 defined under s. 943.10(2) and certified, or a
27 non-probationary correctional probation officer of the rank of
28 senior supervisor or below as defined in s. 943.10(3) and
29 certified, may, at his or her sole discretion, appeal certain
30 adverse employment actions to an ad hoc complaint review board

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1 established by the Department of Corrections in accordance
2 with the following criteria:

3 (a) JUST CAUSE.--A correctional officer or
4 correctional probation officer who has permanent status may
5 only be suspended or dismissed for cause. Cause shall include,
6 but not be limited to, negligence, inefficiency or inability
7 to perform assigned duties, insubordination, willful violation
8 of the provisions of law or agency rules, conduct unbecoming a
9 public employee, misconduct, habitual drug abuse, or
10 conviction of any crime involving moral turpitude.

11 (b) FUNCTION OF BOARDS.--Ad hoc complaint review
12 boards shall be appointed as provided herein for the purpose
13 of hearing appeals of permanent employees arising from
14 personnel actions that result in dismissal, suspension,
15 demotion, transfer, or reduction in pay. Reprimands, oral or
16 written, and suspensions of 4 working days or less shall not
17 be appealable to a board. No more than one such action of
18 suspension may occur within 1 calendar year without the right
19 to appeal regardless of the length of suspension.

20 (c) MEMBERSHIP OF BOARDS.--

21 1. Membership of each such board shall consist of five
22 correctional officers or, in the case of correctional
23 probation officers, five correctional probation officers who
24 are assigned within the county of the officer's employment.
25 Two members shall be selected by the Department of
26 Corrections, two members shall be selected by the employee
27 filing the appeal, and the fifth member, who shall serve as
28 chair of the board, shall be selected by the four members,
29 with the concurrence of the department and the employee
30 requesting the hearing. Any person shall have the right to
31 decline to serve as a member of the board, and persons

1 selected to serve on the board shall serve without additional
2 compensation or overtime compensation with respect to such
3 service. Once selected to a board, the members thereof shall
4 serve until final action is taken by the board with respect to
5 the purpose for which the board was selected, at which time
6 the board shall be dissolved.

7 2. If the chair, or fifth member, cannot be agreed
8 upon within 10 working days after the appeal is submitted,
9 then the parties shall jointly request the Federal Mediation
10 and Conciliation Service to furnish a panel of seven names
11 from which each party shall have the option, within 5 days of
12 receipt, of striking three names in alternating fashion. The
13 seventh or remaining name shall serve as the chair. The
14 parties shall jointly notify the arbitrator of his or her
15 selection. Either party may object to all names on the list,
16 provided the objection is made prior to the commencement of
17 the striking process. If this occurs, the objecting party may
18 request the Federal Mediation and Conciliation Service to
19 furnish another list of arbitrators. No more than two lists
20 may be requested. The costs of the arbitrator shall be shared
21 equally by the parties.

22 (d) PROCEDURES WITH RESPECT TO APPEALS.--

23 1. An appeal of an action specified in paragraph (a)
24 shall be made to the Secretary of the Department of
25 Corrections in writing, and must be received by the department
26 no later than 14 calendar days after the employee is notified
27 of the action on which the appeal is based.

28 2. A complaint review board shall be selected and must
29 meet for purposes of hearing the appeal no later than 30
30 working days after the selection of the chair of the board
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1 unless the time limit is extended by the board or with the
2 mutual agreement of the parties to the proceeding.

3 3. During any hearing, the employee filing the appeal
4 shall have the right to be heard publicly, to be represented
5 by a person of his or her choice, and to present any
6 evidential facts in his or her behalf, and during such
7 hearings the technical rules of evidence shall not apply. The
8 board shall, in the conduct of such hearings, have the power
9 to administer oaths, issue subpoenas, compel the attendance of
10 witnesses, and require the production of books, records,
11 accounts, papers, documents, and testimony. In case of refusal
12 of any person to comply with an order of the board or a
13 subpoena issued by the board, or upon the refusal of a witness
14 to testify on any matter regarding which he or she may be
15 lawfully interrogated, a county judge of the county in which a
16 person resides, upon application of a member of the board,
17 shall compel obedience by proceeding as for contempt. Each
18 witness who appears in obedience to a subpoena before the
19 board shall receive compensation for attendance fees and
20 mileage as provided for witnesses in civil cases in the courts
21 of this state. Such payments shall be made by the party
22 calling the witness, except that with respect to any witnesses
23 called by the board, payments shall be made by the department
24 upon presentation of proper vouchers and approval by three
25 members of the board.

26 4. The department shall bear the burden of
27 establishing that the adverse personnel action was for just
28 cause by a preponderance of the evidence and the discipline
29 imposed was appropriate under the circumstances.

30 5. A board shall by majority vote dispose of the
31 appeal for which it was appointed by making findings of fact

1 and issuing a written decision. Such decision shall either
2 sustain or not sustain the action being appealed. If an action
3 by the department is not sustained by a board, the board shall
4 order such remedial action as is appropriate, which may
5 include reinstatement with back pay, and may modify any
6 personnel action that was the subject of the appeal. No board
7 shall have the authority to impose on any employee any penalty
8 that is more harsh than that which formed the basis of the
9 appeal.

10 6. The decision of the board shall be final and
11 binding on the employee and the Department of Corrections.

12 Section 2. This act shall take effect upon becoming a
13 law.

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15 LEGISLATIVE SUMMARY

16
17 Creates the "Job Protection for Correctional Officers
18 Act." Provides for the creation of ad hoc complaint
19 review boards for the purpose of hearing appeals of
20 permanent employees who are correctional officers or
21 correctional probation officers from personnel actions
22 that result in dismissal, suspension, demotion, transfer,
23 or reduction in pay. (See bill for details.)
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