

By Senator Crist

13-406-02

1 A bill to be entitled
2 An act relating to the Department of
3 Corrections; amending s. 944.31, F.S.;
4 authorizing the Secretary of Corrections to
5 designate persons within the department's
6 office of inspector general to conduct criminal
7 investigations of certain incidents; requiring
8 that the Department of Corrections maintain a
9 memorandum of understanding with the Department
10 of Law Enforcement for purposes of such
11 investigations; authorizing an investigator of
12 the Department of Corrections to make arrests;
13 amending s. 944.35, F.S.; revising requirements
14 for department employees in reporting the use
15 of physical force; requiring that the
16 department's office of inspector general review
17 any use of force and make certain reports;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 944.31, Florida Statutes, is
23 amended to read:

24 944.31 Inspector general; inspectors; power and
25 duties.--The inspector general shall be responsible for prison
26 inspection and investigation, internal affairs investigations,
27 and management reviews. The office of the inspector general
28 shall be charged with the duty of inspecting the penal and
29 correctional systems of the state. The office of the inspector
30 general shall inspect each correctional institution or any
31 place in which state prisoners are housed, worked, or kept

1 within the state, with reference to its physical conditions,
2 cleanliness, sanitation, safety, and comfort; the quality and
3 supply of all bedding; the quality, quantity, and diversity of
4 food served and the manner in which it is served; the number
5 and condition of the prisoners confined therein; and the
6 general conditions of each institution. The office of
7 inspector general shall see that all the rules and regulations
8 issued by the department are strictly observed and followed by
9 all persons connected with the correctional systems of the
10 state. The office of the inspector general shall coordinate
11 and supervise the work of inspectors throughout the state. The
12 inspector general and inspectors may enter any place where
13 prisoners in this state are kept and shall be immediately
14 admitted to such place as they desire and may consult and
15 confer with any prisoner privately and without molestation.
16 The inspector general and inspectors shall be responsible for
17 criminal and administrative investigation of matters relating
18 to the Department of Corrections. The secretary may designate
19 a person within the office of inspector general as a law
20 enforcement officer for the purpose of conducting a criminal
21 investigation of any incident occurring on property owned or
22 leased by the department or involving a matter over which the
23 department has jurisdiction. A person designated as a law
24 enforcement officer pursuant to this section must be certified
25 under s. 943.1395 and have at least 3 years' experience as an
26 investigator with the office of inspector general or at least
27 3 years' experience as a law enforcement officer. The
28 department shall maintain a memorandum of understanding with
29 the Department of Law Enforcement for purposes of notifying
30 the Department of Law Enforcement and providing for the
31 investigation of mutually agreed-upon incidents, which may

1 include, but need not be limited to, suspicious deaths and
2 major organized criminal activity. During ~~in such~~
3 investigations, the inspector general and inspectors may
4 consult and confer with any prisoner or staff member privately
5 and without molestation. A law enforcement officer designated
6 under this section may arrest, without a warrant, any person
7 who has committed a felony enumerated in this chapter or
8 chapter 893, and may arrest an offender for any offense
9 pursuant to a warrant, including an offender who has escaped
10 or absconded from custody.~~and shall have the authority to~~
11 ~~detain any person for violations of the criminal laws of the~~
12 ~~state. Such detention shall be made only on properties owned~~
13 ~~or leased by the department, and The arrested detained person~~
14 ~~shall be surrendered without delay to the sheriff of the~~
15 ~~county in which the arrest ~~detention~~ is made, with a formal~~
16 ~~complaint subsequently made against her or him in accordance~~
17 ~~with law.~~

18 Section 2. Subsection (2) of section 944.35, Florida
19 Statutes, is amended to read:

20 944.35 Authorized use of force; malicious battery and
21 sexual misconduct prohibited; reporting required; penalties.--

22 (2) Each employee of the department who ~~either~~ applies
23 physical force or who was responsible for making the decision
24 to apply physical force upon an inmate or an offender
25 supervised by the department in the community pursuant to this
26 subsection shall prepare, date, and sign an independent report
27 within 1 5 working day after ~~days of~~ the incident. The report
28 shall be delivered to the warden or the circuit administrator
29 ~~regional administrator~~, who shall forward the report with all
30 appropriate documentation to the office of inspector general.
31 The inspector general shall conduct a review and make

1 recommendations regarding the appropriateness or
2 inappropriateness of the use of force. If the inspector
3 general finds that the use of force was appropriate, the
4 employee's report, together with the inspector general's
5 written determination of the appropriateness of force used and
6 the reasons for the use of force, shall be forwarded to the
7 circuit administrator or warden following completion of the
8 review. If the inspector general finds that the use of force
9 was inappropriate, the inspector general shall conduct a
10 complete investigation into the incident and forward the
11 findings of fact to the appropriate regional director for
12 further action.~~have an investigation made and shall approve~~
13 ~~or disapprove the force used. The employee's report, together~~
14 ~~with the warden's or regional administrator's written approval~~
15 ~~or disapproval of the force used and the reasons therefor,~~
16 ~~shall be forwarded within 5 working days of the date of the~~
17 ~~completion of the investigation to the regional director. The~~
18 ~~regional director shall, in writing, concur in the warden's or~~
19 ~~regional administrator's evaluation or disapprove it. Copies~~
20 ~~of the employee's report, the warden's or regional~~
21 ~~administrator's evaluation, and the inspector general's~~
22 ~~regional director's review shall be kept in the files of the~~
23 ~~inmate or the offender supervised by the department in the~~
24 ~~community. A notation of each incident involving use of force~~
25 ~~and the outcome based on the inspector general's~~ warden's or
26 ~~regional director's evaluation and the regional~~
27 ~~administrator's review shall be kept in the employee's file.~~

28 Section 3. This act shall take effect upon becoming a
29 law.
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides for the Secretary of Corrections to designate persons within the department's office of inspector general as law enforcement officers for purposes of investigating certain incidents. Requires the Department of Corrections to maintain a memorandum of understanding with the Department of Law Enforcement for purposes of conducting investigations. Requires an employee of the Department of Corrections to report the use of physical force within 1 day after the incident rather than 5 days after the incident. Requires the department's office of inspector general to review any use of force, determine whether the use of force was appropriate, and make certain reports. (See bill for details.)