

By the Committee on Criminal Justice; and Senator Crist

307-833-02

1 A bill to be entitled
2 An act relating to investigations by the office
3 of inspector general of the Department of
4 Corrections; amending s. 944.31, F.S.;
5 providing for designation of certain persons as
6 law enforcement officers and authorizing such
7 persons to have certain powers and duties;
8 amending s. 944.35, F.S.; revising provisions
9 relating to use of force by department
10 employees and responsibility and guidelines for
11 investigations thereof; providing an effective
12 date.

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

15
16 Section 1. Section 944.31, Florida Statutes, is
17 amended to read:

18 944.31 Inspector general; inspectors; power and
19 duties.--The inspector general shall be responsible for prison
20 inspection and investigation, internal affairs investigations,
21 and management reviews. The office of the inspector general
22 shall be charged with the duty of inspecting the penal and
23 correctional systems of the state. The office of the inspector
24 general shall inspect each correctional institution or any
25 place in which state prisoners are housed, worked, or kept
26 within the state, with reference to its physical conditions,
27 cleanliness, sanitation, safety, and comfort; the quality and
28 supply of all bedding; the quality, quantity, and diversity of
29 food served and the manner in which it is served; the number
30 and condition of the prisoners confined therein; and the
31 general conditions of each institution. The office of

1 | inspector general shall see that all the rules and regulations
2 | issued by the department are strictly observed and followed by
3 | all persons connected with the correctional systems of the
4 | state. The office of the inspector general shall coordinate
5 | and supervise the work of inspectors throughout the state. The
6 | inspector general and inspectors may enter any place where
7 | prisoners in this state are kept and shall be immediately
8 | admitted to such place as they desire and may consult and
9 | confer with any prisoner privately and without molestation.
10 | The inspector general and inspectors shall be responsible for
11 | criminal and administrative investigation of matters relating
12 | to the Department of Corrections. The secretary may designate
13 | persons within the office of the inspector general as law
14 | enforcement officers to conduct any criminal investigation
15 | that occurs on property owned or leased by the department or
16 | involves matters over which the department has jurisdiction.
17 | A person designated as a law enforcement officer must be
18 | certified pursuant to s. 943.1395 and must have a minimum of 3
19 | years' experience as an inspector in the inspector general's
20 | office or as a law enforcement officer. The department shall
21 | maintain a memorandum of understanding with the Department of
22 | Law Enforcement for the notification and investigation of
23 | mutually agreed-upon predicate events that shall include, but
24 | are not limited to, suspicious deaths and organized criminal
25 | activity. During ~~in such~~ investigations, the inspector general
26 | and inspectors may consult and confer with any prisoner or
27 | staff member privately and without molestation and persons
28 | designated as law enforcement officers under this section
29 | shall have the authority to arrest, with or without a warrant,
30 | ~~detain~~ any person for a violation ~~violations~~ of the criminal
31 | laws of the state involving an offense classified as a felony

1 which occurs on property owned or leased by the department and
2 may arrest offenders who have escaped or absconded from
3 custody. ~~Such detention shall be made only on properties owned~~
4 ~~or leased by the department, and~~ The arrested ~~detained~~ person
5 shall be surrendered without delay to the sheriff of the
6 county in which the arrest ~~detention~~ is made, with a formal
7 complaint subsequently made against her or him in accordance
8 with law.

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

11 944.35 Authorized use of force; malicious battery and
12 sexual misconduct prohibited; reporting required; penalties.--

13 (1)(a) An employee of the department is authorized to
14 apply physical force upon an inmate only when and to the
15 extent that it reasonably appears necessary:

16 1. To defend himself or herself or another against
17 such other imminent use of unlawful force;

18 2. To prevent a person from escaping from a state
19 correctional institution when the officer reasonably believes
20 that person is lawfully detained in such institution;

21 3. To prevent damage to property;

22 4. To quell a disturbance;

23 5. To overcome physical resistance to a lawful
24 command; or

25 6. To administer medical treatment only by or under
26 the supervision of a physician or his or her designee and
27 only:

28 a. When treatment is necessary to protect the health
29 of other persons, as in the case of contagious or venereal
30 diseases; or

31

1 b. When treatment is offered in satisfaction of a duty
2 to protect the inmate against self-inflicted injury or death.

3
4 As part of the correctional officer training program, the
5 Criminal Justice Standards and Training Commission shall
6 develop a course specifically designed to explain the
7 parameters of this subsection and to teach the proper methods
8 and techniques in applying authorized physical force upon an
9 inmate.

10 (b) Following any use of force, a qualified health
11 care provider shall examine any person physically involved to
12 determine the extent of injury, if any, and shall prepare a
13 report which shall include, but not be limited to, a statement
14 of whether further examination by a physician is necessary.
15 Any noticeable physical injury shall be examined by a
16 physician, and the physician shall prepare a report
17 documenting the extent and probable cause of the injury and
18 the treatment prescribed. Such report shall be completed
19 within 5 working days of the incident and shall be submitted
20 to the warden for appropriate investigation.

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

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

27 Section 3. This act shall take effect upon becoming a
28 law.

29
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

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 408

- Permits designation of all qualified inspectors within the Inspector General's Office as law enforcement officers.
- Limits arrest authority to felonies that occur on property owned or leased by the department, except that offenders who have escaped or absconded may be arrested regardless of where the offense occurred.
- Mandates that the memorandum of understanding between the Department of Corrections and the Florida Department of Law Enforcement include provisions for reporting and investigation of suspicious deaths and major organized crime activity.