

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.

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

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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 prisoner of or visitor to a state correctional  
31 institution ~~person~~ for a violation ~~violations~~ of the criminal

1 laws of the state involving an offense classified as a felony  
2 that occurs on property owned or leased by the department and  
3 may arrest offenders who have escaped or absconded from  
4 custody. Persons designated as law enforcement officers have  
5 the authority to arrest with or without a warrant a staff  
6 member of the department, including any contract employee, for  
7 a violation of the criminal laws of the state involving an  
8 offense classified as a felony under this chapter or chapter  
9 893 on property owned or leased by the department. A person  
10 designated as a law enforcement officer under this section may  
11 make arrests of persons against whom arrest warrants have been  
12 issued, including arrests of offenders who have escaped or  
13 absconded from custody.~~Such detention shall be made only on~~  
14 ~~properties owned or leased by the department, and~~ The arrested  
15 ~~detained~~ person shall be surrendered without delay to the  
16 sheriff of the county in which the arrest ~~detention~~ is made,  
17 with a formal complaint subsequently made against her or him  
18 in accordance with law.

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

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

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

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

28 2. To prevent a person from escaping from a state  
29 correctional institution when the officer reasonably believes  
30 that person is lawfully detained in such institution;

31 3. To prevent damage to property;

1           4. To quell a disturbance;

2           5. To overcome physical resistance to a lawful  
3 command; or

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

7           a. When treatment is necessary to protect the health  
8 of other persons, as in the case of contagious or venereal  
9 diseases; or

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

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13 As part of the correctional officer training program, the  
14 Criminal Justice Standards and Training Commission shall  
15 develop a course specifically designed to explain the  
16 parameters of this subsection and to teach the proper methods  
17 and techniques in applying authorized physical force upon an  
18 inmate.

19           (b) Following any use of force, a qualified health  
20 care provider shall examine any person physically involved to  
21 determine the extent of injury, if any, and shall prepare a  
22 report which shall include, but not be limited to, a statement  
23 of whether further examination by a physician is necessary.  
24 Any noticeable physical injury shall be examined by a  
25 physician, and the physician shall prepare a report  
26 documenting the extent and probable cause of the injury and  
27 the treatment prescribed. Such report shall be completed  
28 within 5 working days of the incident and shall be submitted  
29 to the warden for appropriate investigation.

30           (2) Each employee of the department who either applies  
31 physical force or was responsible for making the decision to

1 apply physical force upon an inmate or an offender supervised  
2 by the department in the community pursuant to this subsection  
3 shall prepare, date, and sign an independent report within 1 5  
4 working day days of the incident. The report shall be  
5 delivered to the warden or the circuit regional administrator,  
6 who shall forward the report with all appropriate  
7 documentation to the office of the inspector general. The  
8 inspector general shall conduct a review and make  
9 recommendations regarding the appropriateness or  
10 inappropriateness of the use of force. If the inspector  
11 general finds that the use of force was appropriate, the  
12 employee's report, together with the inspector general's  
13 written determination of the appropriateness of the force used  
14 and the reasons therefor, shall be forwarded to the circuit  
15 administrator or warden upon completion of the review. If the  
16 inspector general finds that the use of force was  
17 inappropriate, the inspector general shall conduct a complete  
18 investigation into the incident and forward the findings of  
19 fact to the appropriate regional director for further action  
20 ~~have an investigation made and shall approve or disapprove the~~  
21 ~~force used. The employee's report, together with the warden's~~  
22 ~~or regional administrator's written approval or disapproval of~~  
23 ~~the force used and the reasons therefor, shall be forwarded~~  
24 ~~within 5 working days of the date of the completion of the~~  
25 ~~investigation to the regional director. The regional director~~  
26 ~~shall, in writing, concur in the warden's or regional~~  
27 ~~administrator's evaluation or disapprove it. Copies of the~~  
28 ~~employee's report, the warden's or regional administrator's~~  
29 ~~evaluation, and the inspector general's regional director's~~  
30 review shall be kept in the files of the inmate or the  
31 offender supervised by the department in the community. A

1 notation of each incident involving use of force and the  
2 outcome based on the inspector general's evaluation ~~warden's~~  
3 ~~or regional director's evaluation and the regional~~  
4 ~~administrator's review~~ shall be kept in the employee's file.

5           Section 3. This act shall take effect upon becoming a  
6 law.

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