

By Representative Bilirakis

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, without a warrant, ~~detain~~  
30 any person for a violation ~~violations~~ of the criminal laws of  
31 the state involving an offense classified as a felony under

1 this chapter or chapter 893. A person designated as a law  
2 enforcement officer under this section may make arrests of  
3 persons against whom arrest warrants have been issued,  
4 including arrests of offenders who have escaped or absconded  
5 from custody.~~Such detention shall be made only on properties~~  
6 ~~owned or leased by the department, and~~ The arrested ~~detained~~  
7 person shall be surrendered without delay to the sheriff of  
8 the county in which the arrest ~~detention~~ is made, with a  
9 formal complaint subsequently made against her or him in  
10 accordance with law.

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

13 944.35 Authorized use of force; malicious battery and  
14 sexual misconduct prohibited; reporting required; penalties.--

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

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

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

23 3. To prevent damage to property;

24 4. To quell a disturbance;

25 5. To overcome physical resistance to a lawful  
26 command; or

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

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1           a. When treatment is necessary to protect the health  
2 of other persons, as in the case of contagious or venereal  
3 diseases; or

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

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

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

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

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

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HOUSE SUMMARY

Revises provisions relating to the office of the  
inspector general of the Department of Corrections.  
Provides for designation of certain persons as law  
enforcement officers. Revises provisions relating to use  
of force by department employees and responsibility and  
guidelines for investigations thereof.