

By the Council for Smarter Government and 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:

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 office of the
20 inspector general or as a law enforcement officer. The
21 department shall maintain a memorandum of understanding with
22 the Department of Law Enforcement for the notification and
23 investigation of mutually agreed-upon predicate events that
24 shall include, but are not limited to, suspicious deaths and
25 organized criminal activity. During ~~in such~~ investigations,
26 the inspector general and inspectors may consult and confer
27 with any prisoner or staff member privately and without
28 molestation and persons designated as law enforcement officers
29 under this section shall have the authority to arrest, with or
30 without a warrant, ~~detain~~ any prisoner of or visitor to a
31 state correctional institution ~~person~~ for a violation

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

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

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

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

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

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

1 3. To prevent damage to property;
2 4. To quell a disturbance;
3 5. To overcome physical resistance to a lawful
4 command; or
5 6. To administer medical treatment only by or under
6 the supervision of a physician or his or her designee and
7 only:
8 a. When treatment is necessary to protect the health
9 of other persons, as in the case of contagious or venereal
10 diseases; or
11 b. When treatment is offered in satisfaction of a duty
12 to protect the inmate against self-inflicted injury or death.
13
14 As part of the correctional officer training program, the
15 Criminal Justice Standards and Training Commission shall
16 develop a course specifically designed to explain the
17 parameters of this subsection and to teach the proper methods
18 and techniques in applying authorized physical force upon an
19 inmate.
20 (b) Following any use of force, a qualified health
21 care provider shall examine any person physically involved to
22 determine the extent of injury, if any, and shall prepare a
23 report which shall include, but not be limited to, a statement
24 of whether further examination by a physician is necessary.
25 Any noticeable physical injury shall be examined by a
26 physician, and the physician shall prepare a report
27 documenting the extent and probable cause of the injury and
28 the treatment prescribed. Such report shall be completed
29 within 5 working days of the incident and shall be submitted
30 to the warden for appropriate investigation.
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1 (2) Each employee of the department who either applies
2 physical force or was responsible for making the decision to
3 apply physical force upon an inmate or an offender supervised
4 by the department in the community pursuant to this subsection
5 shall prepare, date, and sign an independent report within 1 5
6 working day days of the incident. The report shall be
7 delivered to the warden or the circuit ~~regional~~ administrator,
8 who shall forward the report with all appropriate
9 documentation to the office of the inspector general. The
10 inspector general shall conduct a review and make
11 recommendations regarding the appropriateness or
12 inappropriateness of the use of force. If the inspector
13 general finds that the use of force was appropriate, the
14 employee's report, together with the inspector general's
15 written determination of the appropriateness of the force used
16 and the reasons therefor, shall be forwarded to the warden or
17 the circuit administrator upon completion of the review. If
18 the inspector general finds that the use of force was
19 inappropriate, the inspector general shall conduct a complete
20 investigation into the incident and forward the findings of
21 fact to the appropriate regional director for further action
22 ~~have an investigation made and shall approve or disapprove the~~
23 ~~force used. The employee's report, together with the warden's~~
24 ~~or regional administrator's written approval or disapproval of~~
25 ~~the force used and the reasons therefor, shall be forwarded~~
26 ~~within 5 working days of the date of the completion of the~~
27 ~~investigation to the regional director. The regional director~~
28 ~~shall, in writing, concur in the warden's or regional~~
29 ~~administrator's evaluation or disapprove it. Copies of the~~
30 ~~employee's report, the warden's or regional administrator's~~
31 ~~evaluation, and the inspector general's regional director's~~

1 review shall be kept in the files of the inmate or the
2 offender supervised by the department in the community. A
3 notation of each incident involving use of force and the
4 outcome based on the inspector general's evaluation ~~warden's~~
5 ~~or regional director's evaluation and the regional~~
6 ~~administrator's review~~ shall be kept in the employee's file.

7 Section 3. This act shall take effect upon becoming a
8 law.

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