

By Representative Mayfield

1 A bill to be entitled
 2 An act relating to Indian River County;
 3 providing for career service for employees of
 4 the Indian River County Sheriff's Office;
 5 providing for application of the act, permanent
 6 status of employees, and administration;
 7 providing for a procedure with respect to
 8 complaints against employees; providing for a
 9 disciplinary procedure and for appeals;
 10 providing for career service appeals boards;
 11 providing for status as permanent employees;
 12 providing severability; prohibiting certain
 13 actions to circumvent the act; providing an
 14 effective date.

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

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 18 Section 1. Employees of the Indian River County
 19 Sheriff's Office; applicability of the act; permanent status
 20 of the employees; administration.--

21 (1) Applicability.--The provisions of this act shall
 22 apply to all full-time sworn and civilian persons in the
 23 employ of the Indian River County Sheriff's Office. The
 24 provisions of this act shall not apply to the Sheriff; or to
 25 special deputy sheriffs appointed pursuant to section
 26 30.09(4), Florida Statutes, members of the Sheriff's Posse or
 27 Reserve Unit, and individuals appointed as part-time deputy
 28 sheriffs, as defined by the Criminal Justice Standards and
 29 Training Commission, unless any such person is also employed
 30 full-time by the Indian River County Sheriff's Office. As used
 31 in this act, the terms "employee," "employ," and "employment"

1 shall refer to all persons, whether employed or appointed, to
2 whom the act applies. It is not, however, the intent of this
3 act to grant the right of collective bargaining to persons in
4 the employ of the Indian River County Sheriff's Office who do
5 not otherwise have that right pursuant to law.

6 (2) Permanent status; cause for suspension or
7 dismissal.--

8 (a) After an employee of the Sheriff to whom the
9 provisions of this act apply has served in such employment for
10 a period of one calendar year, such employees shall have
11 attained permanent status with the Indian River County
12 Sheriff's Office; provided that if an employee is terminated
13 and rehired at a later date, said employee shall be required
14 to complete one calendar year of service from the date of
15 rehire before being granted the right of appeal provided in
16 section 4.

17 (b) Any employee who has achieved permanent status
18 with the Indian River County Sheriff's Office may only be
19 suspended or dismissed for cause; provided that prior to such
20 action the employee must be furnished written notice of the
21 proposed action and offered an opportunity to respond to the
22 reasons for the suspension or dismissal. However, in
23 extraordinary situations such as when delay could result in
24 damage or injury, an employee may be suspended or dismissed
25 for cause immediately and provided notice thereof and reasons
26 therefor within 24 hours. Cause for suspension or dismissal
27 shall include, but not be limited to, negligence, inefficiency
28 or ability to perform assigned duties, insubordination,
29 willful violation of the provisions of law or office rules,
30 conduct unbecoming a public employee, misconduct, or habitual
31 drug abuse. Cause for suspension or dismissal shall also

1 include adjudication of guilt by a court of competent
2 jurisdiction, a plea of guilty or of nolo contendere, or a
3 jury verdict of guilty when adjudication of guilt is withheld
4 and the accused is placed on probation, with respect to any
5 felony, misdemeanor, or major traffic infraction. The filing
6 of felony, misdemeanor, or major traffic infraction charges
7 against an employee shall constitute cause for suspension.
8 (3) Transition of career service employees.--When a
9 newly elected or appointed Sheriff assumes office, the new
10 Sheriff shall continue the employment of all currently
11 employed permanent personnel unless cause for dismissal, as
12 provided herein, exists. However, the incoming Sheriff shall
13 have the option of maintaining the current personnel assigned
14 to the positions of Captain up through Undersheriff, and
15 Executive Secretary. If the incoming Sheriff fills the
16 positions of Captain up to Undersheriff with new personnel,
17 the current occupant of that position shall be reduced to the
18 next lower then-existing rank at the current maximum pay step,
19 which rank shall be permanent unless later reduced by
20 disciplinary demotion. If the incoming Sheriff fills the
21 Executive Secretary position with a new employee, the current
22 occupant of the position shall be reduced to the position of
23 Administrative Assistant at the current maximum pay step,
24 which shall be permanent unless later reduced by disciplinary
25 demotion. Actions taken pursuant to this subsection affecting
26 the Captain through Undersheriff positions and the Executive
27 Secretary position shall not be appealable under section 4.
28 (4) Administration.--The Sheriff shall have the
29 authority to adopt such rules and regulations as are necessary
30 for the implementation and administration of this act;
31 however, nothing in this act shall be construed as affecting

1 the budgetmaking powers of the Board of Commissioners of
2 Indian River County.

3 Section 2. Complaints against employees; procedure.--

4 (1) Complaints against employees.--A complaint receipt
5 and processing procedure shall be established in order to
6 provide adequately for the prompt receipt, investigation, and
7 disposition of complaints against employees of the Indian
8 River County Sheriff's Office.

9 (2) Procedure with respect to complaints.--Any
10 employee of the Sheriff is authorized to receive a complaint
11 against any other employee of the Sheriff. All complaints
12 shall be reduced to writing and shall be resolved as provided
13 herein:

14 (a) If a complaint is received by an employee during
15 normal working hours, the complaint shall be referred to the
16 appropriate Division Captain unless the receiving employee is
17 able to resolve the complaint, in which case the complaint and
18 resolution shall be reported, in writing, to the Division
19 Captain.

20 (b) If a complaint is received after normal working
21 hours, it shall be referred to the Watch Commander unless the
22 receiving employee is able to resolve the complaint, in which
23 case the complaint and resolution shall be reported, in
24 writing, to the Watch Commander. The Watch Commander, in his
25 or her discretion, shall conduct an investigation to determine
26 if immediate action is needed to preserve the integrity of the
27 Office of the Sheriff. If immediate action is not required,
28 the complaint shall be referred to the appropriate Division
29 Captain at the beginning of the next working day, or sooner if
30 required.

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1 (c) All complaints shall be reviewed by the Sheriff,
2 or the Sheriff's designee. If the Sheriff, or the Sheriff's
3 designee, has reason to believe that the complaint is well
4 founded, he or she shall review the complaint with the
5 employee's appropriate chain of command.

6 (d) If the Sheriff, or the Sheriff's designee, finds
7 the complaint to be unfounded, a written report shall be filed
8 for information only, and a copy of the report shall be given
9 to the employee.

10 (e) If the Sheriff, or the Sheriff's designee, finds
11 that a complaint is well founded and that a violation has
12 occurred, the Sheriff, or the Sheriff's designee, shall decide
13 upon appropriate disciplinary action, and the employee shall
14 be notified of the proposed disciplinary action as provided in
15 section 3.

16 (f) If an employee is dissatisfied with the decision
17 of the Sheriff, or the Sheriff's designee, regarding
18 disciplinary action resulting in dismissal, demotion, or
19 suspension of more than 3 working days, the employee may
20 appeal the action to the Career Service Appeal Board.

21 Section 3. Disciplinary procedure; disciplinary appeal
22 procedure.--

23 (1) Disciplinary procedure.--

24 (a) A disciplinary procedure shall be established
25 which contains provisions for a factual review of each
26 disciplinary action by the Human Resources Director or the
27 equivalent and an opportunity for the accused to respond to
28 the charges and request a meeting with the appropriate
29 administrator prior to the imposition of the action. A
30 decision by an administrator to impose a disciplinary action
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1 shall result in the completion of a Notice of Disciplinary
2 Action Form.

3 (b) No dismissal, demotion, or other punitive
4 personnel action that results in loss of pay, loss of
5 benefits, disciplinary transfer, or disciplinary reassignment
6 shall be taken against any law enforcement officer,
7 correctional officer, or nonsworn employee, unless such law
8 enforcement officer, correctional officer, or nonsworn
9 employee is notified by the receipt of a Notice of
10 Disciplinary Action Form prior to the effective date of such
11 action.

12 (2) Disciplinary appeal procedure.--

13 (a) An appeal of a Notice of Disciplinary Action must
14 be made in accordance with the Sheriff's disciplinary
15 procedure and shall result in a hearing by a disciplinary
16 appeal board as specified in said procedure.

17 (b) Following the hearing, the board shall report to
18 the Sheriff via the Director of Human Resources, or other
19 person so designated by the Sheriff, specifying whether the
20 appeal is affirmed or denied.

21 (c) The Sheriff, or the Sheriff's designee, shall
22 review the appeal board report and will prepare, or cause to
23 be prepared, a personnel order, with the Sheriff's final
24 disposition on the issue.

25 Section 4. Career service appeals boards; creation;
26 membership; duties.--

27 (1) Function of boards.--Ad hoc career service appeals
28 boards shall be appointed as provided herein for the purpose
29 of hearing appeals of permanent employees arising from
30 personnel actions brought under office rules or policies which
31 result in dismissal, suspension, demotion, or reduction in

1 pay; provided that reprimands, oral or written, and suspension
2 of 3 working days or less shall not be appealable to the
3 Career Service Appeal Board. Any such board may also provide
4 assistance and advice to the Sheriff in matters concerning
5 disciplinary actions, and may take any other action authorized
6 by the Sheriff.

7 (2) Membership of boards.--When needed upon the call
8 of the Sheriff or the filing of an appeal, an ad hoc Career
9 Service Appeals Board shall be appointed. The membership of
10 each such board shall consist of two members selected by the
11 Sheriff from among the certified law enforcement or
12 correctional officers within the Sheriff's jurisdiction; two
13 members selected by the employee filing the appeal from among
14 the certified law enforcement or correctional officers within
15 the Sheriff's jurisdiction; one member, a certified law
16 enforcement or correctional officer currently employed by the
17 Indian River County Sheriff's Office, selected by the other
18 members of the board, who shall serve as chairperson. If an
19 impartial chairperson cannot be agreed upon within 10 working
20 days after the appeal is submitted, the Sheriff shall forward
21 a list of current qualified Sheriff's Office employees to a
22 Nineteenth Judicial Circuit Court Judge or Indian River County
23 Judge who shall appoint a chairperson.

24 (a) Any employee shall have the right to decline to
25 serve as a member of the board, and employees selected to
26 serve on the board shall serve without additional compensation
27 or overtime compensation with respect to such service.

28 (b) Once selected to the board, the members thereof
29 shall serve until final action is taken with respect to the
30 purpose for which the board was selected, at which time the
31 board shall be dissolved.

1 (c) No person may serve as a member of the ad hoc
2 Career Service Appeals Board who:
3 1. Shall have been involved in the original incident
4 that resulted in the disciplinary process that is the subject
5 of the appeal.
6 2. Is related to the appellant.
7 3. Has been terminated from a law enforcement agency
8 within Indian River County due to a disciplinary action.
9 4. Has any ongoing litigation against the Indian River
10 County Sheriff's Office.
11 5. Is on probation or has received discipline within
12 the past year.
13 (3) Procedure with respect to appeals.--
14 (a) An appeal of an action specified in section 3
15 shall be made to the Sheriff in writing, and must be received
16 by the Sheriff no later than 5 working days after the employee
17 is notified of the action on which the appeal is based.
18 (b) A Career Service Appeals Board shall be selected
19 and must meet for purposes of hearing the appeal no later than
20 15 days, excluding weekends and holidays, after receipt of an
21 appeal by the Sheriff. The time for hearing may be extended by
22 mutual agreement of the parties.
23 (c) During any hearing, the employee filing the appeal
24 shall have the right to be heard publicly, to be represented
25 by a person of his or her choice, and to present any relevant
26 evidence on his or her behalf, and during such hearings the
27 technical rules of evidence shall not apply. The board shall,
28 in the conduct of such hearings, have the power to administer
29 oaths, issue subpoenas, compel the attendance of witnesses,
30 and require the production of books, records, accounts,
31 papers, documents, and testimony. In case of disobedience of

1 any person to comply with an order of the board or a subpoena
2 issued by the board, or upon the refusal of a witness to
3 testify on any matter regarding which he or she may be
4 lawfully interrogated, a county judge of the county in which
5 the person resides, upon application of any member of the
6 board, shall compel obedience by proceeding as for contempt.
7 Each witness who appears in obedience to a subpoena before the
8 board shall receive compensation for attendance fees and
9 mileage as provided for witnesses in civil cases in the courts
10 of the State of Florida. Such payments shall be made by the
11 party calling the witness; except that with respect to any
12 witnesses called by the board, payments shall be made by the
13 Sheriff upon presentation of proper vouchers and approval by
14 three members of the board. This board is not governed by the
15 Administrative Procedure Act, as codified in chapter 120 of
16 the Florida Statutes.

17 (4) Disposition with respect to career service
18 appeals.--

19 (a) The board shall, by majority vote, dispose of the
20 appeal for which it was appointed by making findings of fact
21 and issuing a written decision. Such decision shall either
22 sustain or not sustain the action being appealed. If an action
23 by the Sheriff is not sustained by the board, the board shall
24 order such remedial action as is appropriate, which may
25 include reinstatement with back pay, and may modify any
26 personnel action which was the subject of the appeal. No board
27 shall have the authority to impose on any employee any penalty
28 which is more harsh than that which formed the basis of the
29 appeal.

30 (b) The decision of the board shall be final and
31 binding on the employee and the Sheriff unless the Sheriff

1 finds that the decision of the board is so defective that no
2 reasonable board could have reached the decision not to
3 sustain the action being appealed. The Sheriff shall have 10
4 days from receipt of the board's written decision to prepare,
5 or cause to be prepared, a personnel order stating the final
6 disposition of the appeal which shall be binding on the
7 employee.

8 Section 5. (1) All sworn and civilian persons in the
9 employ of the Indian River County Sheriff's Office on the
10 effective date of this act who have served for a period of one
11 calendar year or more as of such date shall be permanent
12 employees subject to the provisions of this act. All other
13 employees shall become permanent employees subject to the
14 provisions of this act upon reaching their one-calendar-year
15 service anniversary date.

16 (2) The provisions of this act shall be severable and,
17 if any of the provisions shall be unconstitutional, the
18 decision of the court shall not affect the validity of the
19 remaining provisions. It is hereby declared to be the intent
20 of the Legislature that this act would have been adopted had
21 such unconstitutional provision not been included therein.

22 (3) Promotions or demotions of members or creation of
23 rank to circumvent the intent of this act shall be held as
24 invalid and shall not affect the Career Service status of any
25 member affected by such invalid action.

26 (4) No sworn or nonsworn employee of the Indian River
27 County Sheriff's Office shall be discharged; disciplined;
28 demoted; denied promotion, transfer, or reassignment; or
29 otherwise discriminated against in regard to his or her
30 employment or appointment, or be threatened with any such
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1 treatment, by reason of his or her exercise of the rights
2 granted by this act.
3 Section 6. This act shall take effect upon becoming a
4 law.
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