

1 A bill to be entitled
 2 An act relating to Levy County; providing for career
 3 service for members of the Levy County Sheriff's Office;
 4 providing for application of the act, career status of
 5 members, and administration; providing for a procedure
 6 with respect to complaints against members; providing for
 7 appeals; providing for certain protections during the
 8 transition of a new Sheriff; providing for a Career
 9 Service Appeal Board; providing for status as career
 10 members; providing that the board is not governed by the
 11 Administrative Procedure Act; prohibiting certain actions
 12 to circumvent the act; providing for exclusions; providing
 13 severability; providing an effective date.

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

16
 17 Section 1. Members of the Levy County Sheriff's Office;
 18 applicability of the act; career status of the members;
 19 administration.--

20 (1) APPLICABILITY.--

21 (a) This act shall apply to all full-time certified and
 22 noncertified persons in the employ of the Levy County Sheriff's
 23 Office except as specifically described in section 6.

24 (b) As used in this act, the terms "member," "employee,"
 25 "employ," and "employment" shall refer to all persons, whether
 26 employed or appointed, to whom the act applies. It is not,
 27 however, the intent of this act to grant any rights not
 28 specifically stated in this act beyond the provisions of this

29 act to persons in the employ of the Levy County Sheriff's Office
 30 who do not otherwise have those rights pursuant to law.

31 (2) CAREER STATUS; CAUSE FOR TERMINATION OF EMPLOYMENT.--

32 (a) After a member of the Levy County Sheriff's Office to
 33 whom the provisions of this act apply has served in such
 34 employment for a period of 1 calendar year and successfully
 35 completed a probationary training program, such employee shall
 36 have attained career status with the Levy County Sheriff's
 37 Office, provided that, if an employee is terminated and rehired
 38 at a later date, said employee shall be required to complete 1
 39 calendar year of service from the date of rehire before being
 40 granted the right of appeal provided in section 4 of this act.

41 (b) Any employee who has achieved career status with the
 42 Levy County Sheriff's Office may only be terminated for just
 43 cause, provided that prior to such action the employee shall be
 44 furnished written notice of the proposed action and offered an
 45 opportunity to respond to the reasons for the termination.
 46 However, in situations in which delay could result in damage or
 47 injury, an employee may be relieved of duty immediately and
 48 provided notice thereof and reasons therefor within 24 hours.

49 (c) Just cause for initiating an internal investigation
 50 that may result in termination of employment shall include
 51 violation of the provisions of law or office rules or direct
 52 violation of published Sheriff's Office policy.

53 (d) Just cause for initiating an internal investigation
 54 shall also include, with respect to any felony or misdemeanor,
 55 adjudication of guilt by a court of competent jurisdiction, a
 56 plea of guilty or of nolo contendere, or adjudication of guilt

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57 withheld and the accused placed on probation.

58 (e) The filing of felony or misdemeanor charges by the
59 state attorney against an employee shall constitute just cause
60 for initiating an internal investigation.

61 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--

62 (a) When a newly elected or appointed Sheriff assumes
63 office, the new Sheriff shall continue the employment of all
64 currently employed career personnel unless just cause for
65 termination of employment, as provided herein, exists. However,
66 the incoming Sheriff shall have the option of maintaining the
67 current personnel assigned to the positions of Lieutenant and
68 above, Executive Assistants, Executive Office Managers, and
69 Administrative Positions of Trust.

70 (b) Positions of Trust include the Comptroller, the
71 Director of Property Management, and Special Investigators
72 assigned and involved in conducting internal inquiries or
73 internal investigations.

74 (c) If the incoming Sheriff fills the positions of
75 Lieutenant and above, Executive Assistants, Executive Office
76 Managers, and Administrative Positions of Trust with new
77 personnel, the current occupants of those positions may be
78 reduced to the next lower existing rank or civilian designation
79 and transferred to another assignment within the same division
80 or a salary adjustment of up to 10 percent downward, or both. In
81 the event no position is available downward, as in a one-person
82 department, the occupant may be transferred to another
83 assignment within the Sheriff's Office with up to a 10-percent
84 pay reduction.

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85 (d) The new rank of the individuals shall be the permanent
86 rank of the individuals for a period of 6 months and then may be
87 later changed by independent disciplinary action.

88 (e) Initial actions taken pursuant to this subsection
89 affecting the Lieutenants and above and other Executive
90 Positions of Trust and within the guidelines of section 3 shall
91 not be subject to appeal under section 4.

92 (4) ADMINISTRATION.--

93 (a) The Sheriff shall have the authority to adopt such
94 rules and regulations as are necessary for the implementation
95 and administration of this act.

96 (b) The promulgation of rules and regulations related to
97 this act by the Sheriff are at his or her sole discretion;
98 however, nothing in this act shall be construed as affecting the
99 budget-making powers of the Board of County Commissioners of
100 Levy County.

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

102 (1) A complaint receipt and processing procedure shall be
103 established in order to provide adequately for the prompt
104 receipt, investigation, and disposition of complaints against
105 members of the Levy County Sheriff's Office. The complaint
106 procedure shall reflect the provisions in section 112.532,
107 Florida Statutes.

108 (2) After written receipt of the disposition of the
109 complaint, if an employee is dissatisfied with the decision of
110 the Sheriff regarding disciplinary action resulting in
111 termination of employment, the employee may appeal the action to
112 the Career Service Appeal Board.

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113 Section 3. Disciplinary appeal procedure.--

114 (1) An appeal of disciplinary action resulting in
115 termination of employment shall result in the opportunity for a
116 hearing before a Career Service Appeal Board as specified in
117 said procedure.

118 (2) Immediately following the hearing, the board shall
119 report to the Sheriff via the director of human resources or
120 other person so designated by the Sheriff.

121 Section 4. Career Service Appeal Board; creation;
122 membership; duties.--123 (1) FUNCTION OF BOARD.--

124 (a) An ad hoc Career Service Appeal Board shall be
125 appointed as provided herein for the purpose of hearing appeals
126 from career employees brought under the provisions of this act
127 or the Sheriff's Office rules or policies that result in
128 termination of employment.

129 (b) A board may also, upon the request of the Sheriff,
130 provide assistance and advice to the Sheriff in matters
131 concerning disciplinary actions and may take any other actions
132 as authorized by the Sheriff.

133 (2) MEMBERSHIP OF BOARD.--

134 (a) When needed upon the call of the Sheriff or the filing
135 of an appeal of a termination of employment, an ad hoc Career
136 Service Appeal Board shall be appointed. The membership of each
137 such board shall consist of two members selected by the Sheriff
138 from among any full-time eligible employees from within the
139 Sheriff's Office; two members selected by the employee filing
140 the appeal from among any full-time eligible employees within

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141 the Sheriff's Office; and one member, who is a full-time
142 eligible member from within the Levy County Sheriff's Office,
143 selected by the other members of the board, who shall serve as
144 chairperson.

145 (b) If a noncertified member requests an appeal, the two
146 members selected by the noncertified member may be from among
147 any full-time eligible employees from any division of the
148 Sheriff's Office.

149 (c) The appealing member shall have 7 calendar days from
150 the date that the request for a hearing was delivered directly
151 to the Sheriff, or to one of the administrative assistants in
152 the Sheriff's Office, to select two qualified members willing to
153 serve as members of the board and deliver their names directly
154 to Human Resources. If, within the 7-day period, the appealing
155 member fails to submit the names of two qualified members as
156 outlined in this paragraph and paragraphs (a) and (b) who have
157 been contacted and are willing to serve, the option to be heard
158 by a Career Service Appeal Board is procedurally waived and
159 ceases to exist.

160 (d) The Sheriff shall, within this same 7-day period,
161 deliver to Human Resources the names of his or her two
162 selections to serve as members of the board. If, within the 7-
163 day period, the Sheriff fails to submit the names of two
164 qualified members as outlined in this paragraph and paragraph
165 (a), the action against the employee is procedurally waived and
166 ceases to exist.

167 (e) The four members shall then have 5 calendar days to
168 select the fifth member from the list of remaining qualified

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169 members.

170 (f) If an impartial chairperson cannot be agreed upon
171 within 5 calendar days after the first four members are
172 selected, a judge from within the Third Circuit of the state
173 shall, within 5 days, appoint a chairperson who is a full-time
174 eligible member within the Levy County Sheriff's Office.

175 (g) The ranking officer or his or her designee in charge
176 of personnel matters shall serve as an ex officio member of the
177 board for the purpose of providing procedural guidance to the
178 board concerning the application of this act and any rules or
179 regulations of this act and any rules or regulations adopted by
180 the Sheriff relating thereto, but such ex officio member shall
181 have no vote.

182 (h) The Sheriff may, at his or her own initiative, appoint
183 a Career Service Appeal Board for the purpose of receiving,
184 considering, and making a recommendation on matters related to
185 the formation or streamlining of rules related to this act or to
186 consider any other matter deemed appropriate by the Sheriff,
187 excluding disciplinary termination of employment. If the issue
188 to be under consideration involves a specific member of the
189 Sheriff's Office and may result in some disciplinary
190 recommendation by the board, the Sheriff shall notify the
191 individual and offer the opportunity for the individual to
192 provide two members to the board to consider the specific
193 question at issue. If no specific member is involved, the
194 Sheriff shall appoint two members from the Civil Division and
195 two members from the Criminal Division, and the Captain of the
196 Administrative Division shall serve as the chairperson. A board

197 appointed by initiative may only make recommendations.

198 (3) HEARING TIME; DATE; COMPENSATION; CONSOLIDATION;
 199 EXCLUSIONS.--

200 (a) Standardized dates and times of meetings shall be
 201 established by rule and shall occur during normal administrative
 202 office hours.

203 (b) Members selected to serve on the board shall serve
 204 without additional compensation for meetings occurring during
 205 their normal work hours. For nonwork hours, compensatory time at
 206 the rate of 150 percent for the actual hours in session shall be
 207 credited to the member.

208 (c) Once selected to the board, the members thereof shall
 209 serve until final action is taken with respect to the purpose
 210 for which the board was selected, at which time the board shall
 211 be dissolved.

212 (d) A new Career Service Appeal Board shall be selected
 213 for each separate occurrence; however, multiple parties filing
 214 appeals on the same incident may request to be heard by a single
 215 board.

216 (e) A person may not serve as a member of an ad hoc Career
 217 Service Appeal Board who:

218 1. Was involved in the original incident that resulted in
 219 the disciplinary process that is the subject of the appeal.

220 2. Is related to the appellant.

221 3. Is currently under investigation or suspension.

222 4. Has any ongoing litigation against the Levy County
 223 Sheriff's Office.

224 5. Is on probation or has received sustained discipline

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225 within the past year.

226 (4) PROCEDURE WITH RESPECT TO AN APPEAL.--

227 (a) An appeal of an action specified in section 3 shall be
228 made to the Sheriff in writing and must be received by the
229 Sheriff no later than 5 calendar days after the employee is
230 notified of the action on which the appeal is based.

231 (b) When a Career Service Appeal Board has been selected
232 for purposes of hearing the appeal, the Sheriff shall publish
233 and furnish notice to the appealing person of the date,
234 location, and time of the hearing before the Career Service
235 Appeal Board. In any case, the date of the hearing shall be
236 within 15 calendar days, excluding weekends and holidays, after
237 notification of the selection of the fifth member.

238 (c) The date of the hearing may be extended by mutual
239 agreement of the parties.

240 (d) During the hearing, the employee filing the appeal
241 shall have the right to be heard, to be represented by a person
242 of his or her choice, and to present any relevant evidence on
243 his or her behalf, and during the hearing the technical rules of
244 evidence shall not apply.

245 (e) The board shall, in the conduct of a hearing, have the
246 power to administer oaths, issue subpoenas, compel the
247 attendance of witnesses, and require the production of books,
248 records, accounts, papers, documents, prior statements,
249 testimony, and investigative files related to the issue that are
250 in the possession of or have been delivered to Human Resources a
251 minimum of 5 business days prior to the beginning of the
252 hearing. In case of disobedience of any person to comply with an

253 order of the board or a subpoena issued by the board, or upon
 254 the refusal of a witness to testify on any matter regarding
 255 which he or she may be lawfully interrogated, a County Judge of
 256 the county in which a person resides, upon application of a
 257 member of the board, shall compel obedience by proceeding as for
 258 contempt. Each witness who appears in obedience to a subpoena
 259 before the board shall receive compensation for attendance fees
 260 and mileage as provided for witnesses in civil cases in the
 261 courts of this state. Such payments shall be made by the party
 262 calling the witness, except that with respect to any witnesses
 263 called by the board, payments shall be made by the Sheriff upon
 264 presentation of proper vouchers and approval by three members of
 265 the board. In any case, the board shall restrict its
 266 considerations and deliberations to the evidence presented at
 267 the hearing.

268 (f) This board is not governed by the Administrative
 269 Procedure Act, as codified in chapter 120, Florida Statutes.

270 (5) DISPOSITION WITH RESPECT TO A CAREER SERVICE APPEAL.--

271 (a) The board shall, by majority vote, dispose of the
 272 appeal for which it was appointed by making a determination of
 273 just cause and issuing a written decision. Such decision shall
 274 be based upon the simple determination of a preponderance of
 275 evidence (51 percent). In the instance of an appeal to the board
 276 concerning a termination, a majority vote of the board shall be
 277 required to overturn the Sheriff's decision to terminate. All
 278 members of the board must be present to conduct any official
 279 business of the board.

280 (b) If the board does not sustain the action by the

281 Sheriff, back pay and benefits shall be reinstated. No board
 282 shall have the authority to impose on any employee any penalty
 283 that is different than that which formed the basis of the
 284 appeal. If the board sustains the action of the Sheriff, it may
 285 also make a recommendation to the Sheriff to reconsider
 286 mitigating circumstances and reconsider the termination-of-
 287 employment action. The Sheriff shall review the determination of
 288 the board and consider its recommendation prior to imposition of
 289 final action.

290 (c) The decision of the board, which is to be arrived at
 291 by paper ballot, shall be forwarded to the Sheriff.

292 (d) This final decision of the board shall be binding on
 293 the employee and the Sheriff.

294 (e) The Sheriff shall prepare, or cause to be prepared, an
 295 order and publish the final disposition of the appeal. The final
 296 disposition shall be binding on the employee.

297 (f) The board hearing and the board's deliberations shall
 298 be open to the public, recorded, and preserved for the public
 299 record.

300 (g) The chairperson of the board shall have the authority
 301 to receive and consider written prehearing motions that shall be
 302 presented to the full board at the hearing. He or she shall
 303 preside over the hearing, enforce the decorum of the hearing,
 304 receive requests for breaks, convene the deliberations, and
 305 cause the removal of anyone attempting to disrupt any of the
 306 proceedings.

307 Section 5. Included individuals; circumvention.--

308 (1) INCLUDED INDIVIDUALS.--All full-time certified and

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309 noncertified persons in the employ of the Levy County Sheriff's
310 Office on the effective date of this act who have served for a
311 period of 1 calendar year or more and successfully completed
312 their probationary period as of such effective date of the act
313 shall be career employees subject to the provisions of this act.
314 All other full-time employees shall become career employees
315 subject to the provisions of this act upon reaching their 1-
316 calendar-year service anniversary date and successfully
317 completing their probationary period.

318 (2) CIRCUMVENTION.--

319 (a) Promotions or demotions of members or creation of rank
320 to circumvent the intent of this act shall be held as a valid
321 reason to request the Sheriff to appoint a Career Service
322 Appeals Board to consider the issue in question.

323 (b) No certified or noncertified full-time employee of the
324 Levy County Sheriff's Office shall be discharged or
325 discriminated against in regard to his or her employment or
326 appointment, or threatened with any such treatment, by reason of
327 his or her exercise of the rights granted by this act.

328 Section 6. Exclusions.--

329 (1) The career status provisions of this act shall not
330 apply to the Sheriff; to Special Deputy Sheriffs appointed
331 pursuant to section 30.09(4), Florida Statutes; to members
332 employed pursuant to a grant whose continued existence or
333 funding is subject to the expiration or withdrawal of the grant;
334 to nondisciplinary termination of employment arising out of a
335 reduction of force, layoff, or partial or total abolition or
336 cessation of a program, service, operation, or department at the

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337 discretion of the Sheriff; to members of the Sheriff's Reserve
338 Unit; or to individuals appointed as part-time Deputy Sheriffs,
339 as defined by the Criminal Justice Standards and Training
340 Commission, unless any such person is also employed full-time by
341 the Levy County Sheriff's Office.

342 (2) This act shall not apply to an otherwise covered
343 person who claims that a termination of employment was for
344 lawful off-duty political activity. Claims of this nature are
345 already covered under chapter 30, Florida Statutes.

346 (3) This act shall not apply to an otherwise covered
347 person who claims that a termination of employment was for
348 discriminatory purposes. Claims of this nature are already
349 covered under state and federal statutes.

350 Section 7. Severability.--The provisions of this act shall
351 be severable and, if any of the provisions shall be
352 unconstitutional, the decision of the court shall not affect the
353 validity of the remaining provisions. It is hereby declared to
354 be the intent of the Legislature that this act would have been
355 adopted had such unconstitutional provision not been included
356 therein.

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