

1 A bill to be entitled
 2 An act relating to the Wakulla County Sheriff's Office;
 3 providing permanent status for certain employees of the
 4 Sheriff; specifying rights of employees; providing
 5 procedures for appeal of disciplinary actions and
 6 complaints against employees; providing for transition
 7 between sheriffs; providing for the appointment of career
 8 service appeals boards to hear appeals and procedures with
 9 respect thereto; providing for complaints against
 10 employees; providing applicability; providing an effective
 11 date.

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

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 15 Section 1. Employees of Wakulla County Sheriff;
 16 applicability of act; permanent status of employees;
 17 administration.--

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

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29 persons, whether employed or appointed, to whom the act applies.
30 It is not, however, the intent of this act to grant the right of
31 collective bargaining to persons in the employ of the Office of
32 the Sheriff who do not otherwise have that right pursuant to
33 law.

34 (2) IMMUNITIES.--Members of the Career Service Board and
35 their alternates, the Sheriff's witnesses while giving truthful
36 testimony, and the Sheriff's representatives, individually and
37 collectively, shall be immune from all civil liability arising
38 from actions taken pursuant to this act.

39 (3) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--

40 (a) After an employee of the Sheriff to whom the
41 provisions of this act apply has served in such employment for a
42 period of 1 calendar year, such employee shall have attained
43 permanent status in the Office of the Sheriff; provided, that if
44 an employee is placed on disciplinary probation for a period of
45 6 months or more or is terminated and rehired at a later date,
46 said employee shall be required to complete 1 calendar year of
47 service from the date of the action before being granted the
48 right of appeal provided in section 2. An employee who is
49 promoted to a higher rank or position shall serve a probationary
50 period of 6 months. A promoted employee shall retain permanent
51 status, but may be demoted to his or her prior rank or position
52 during such probationary period without the right of appeal
53 pursuant to this act.

54 (b) Any employee who has achieved permanent status in the
55 Office of the Sheriff may only be suspended or dismissed for
56 cause, provided that prior to such disciplinary action the

57 employee must be furnished written notice of the proposed action
58 and offered an opportunity to respond to the reasons for the
59 suspension or dismissal. However, in extraordinary situations
60 such as when delay could result in damage or injury, an employee
61 may be suspended or dismissed for cause immediately and provided
62 notice thereof and reasons therefor within 24 hours. Cause for
63 suspension or dismissal shall include, but not be limited to,
64 negligence, inefficiency, or inability to perform assigned
65 duties, insubordination, violation of the provisions of law or
66 office rules, conduct unbecoming a public employee, misconduct,
67 or habitual drug abuse. Cause for suspension or dismissal shall
68 also include adjudication of guilt by a court of competent
69 jurisdiction, a plea of guilty or nolo contendere, or a jury
70 verdict of guilty when adjudication of guilt is withheld and the
71 accused is placed on probation, with respect to any felony,
72 misdemeanor, or major traffic infraction. The filing of felony,
73 misdemeanor, or major traffic infraction charges against an
74 employee shall constitute cause for suspension.

75 (4) TRANSITION OF EMPLOYEES.--When a newly elected or
76 appointed Sheriff assumes office, the new Sheriff shall continue
77 the employment of all currently employed permanent status
78 personnel unless cause for dismissal, as provided herein,
79 exists. However, the incoming Sheriff shall have the option of
80 maintaining the current personnel assigned to the positions of
81 Sheriff's Executive Secretary, Chief Deputy, and Major. If the
82 incoming Sheriff fills the Chief Deputy or Major positions with
83 new personnel, the current occupants of those positions shall
84 not be reduced lower than the rank of Captain, which rank shall

85 be permanent unless later reduced by disciplinary demotion, and
 86 their salaries may be reduced accordingly. If the new Sheriff
 87 fills the Sheriff's Executive Secretary position with a new
 88 employee, the current occupant of the position shall be
 89 transferred to another position for which the employee is
 90 qualified within the Office of the Sheriff. Actions taken
 91 pursuant to this subsection shall not be appealable under
 92 section 2.

93 (5) ADMINISTRATION.--The Sheriff shall have the authority
 94 to adopt such rules and regulations as are necessary for the
 95 implementation and administration of this act; however, nothing
 96 in this act shall be construed as affecting the budgetmaking
 97 powers of the Board of Commissioners of Wakulla County.

98 Section 2. Career Service Appeals Boards; creation;
 99 membership; duties.--

100 (1) FUNCTION OF CAREER SERVICE APPEALS BOARD.--An ad hoc
 101 Career Service Appeals Board shall be appointed as provided
 102 herein for the purpose of hearing appeals of permanent status
 103 employees arising from personnel actions brought under agency
 104 rules or policies which result in dismissal, suspension,
 105 demotion, or reduction in pay, provided that reprimands, oral or
 106 written, and suspension of 5 working days or less shall not be
 107 appealable to a Career Service Appeals Board. Any such board may
 108 also provide assistance and advice to the Sheriff in matters
 109 concerning disciplinary actions and may take any other action
 110 authorized by the Sheriff.

111 (2) MEMBERSHIP AND SELECTION OF CAREER SERVICE APPEALS
 112 BOARD.--

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113 (a) An ad hoc Career Service Appeals Board shall be
114 appointed upon the call of the Sheriff or upon the filing of an
115 appeal. The membership of each such board shall consist of five
116 law enforcement officers or correctional officers, or a
117 combination thereof, all of whom shall be employees of the
118 Office of the Sheriff. The Sheriff shall select two members, the
119 employee filing the appeal shall select two members, and the
120 fifth member, who shall serve as chair of the board, shall be
121 selected by the other four members, with the concurrence of the
122 Sheriff and the employee requesting the hearing.

123 (b) The five-member board shall select an alternate board
124 member who shall sit for the appeal hearing proceedings. If at
125 the conclusion of the hearing, the original five board members
126 remain, the alternate member shall be excused and shall have no
127 authority to vote or participate in the deliberations. However,
128 if at any time during the hearing or prior to deliberations, any
129 original board member is unable to continue to serve for any
130 reason, the alternate member shall replace that original board
131 member. The alternate member who replaces an original board
132 member shall then have voting authority and shall participate in
133 the deliberations.

134 (c) The ranking officer in charge of personnel, or his or
135 her designee, shall serve as an ex officio member of the board,
136 but shall have no vote. Any employee shall have the right to
137 decline to serve as a member of a board. Any employee selected
138 to serve on a board shall serve without additional compensation
139 or overtime compensation with respect to such service. Once
140 selected to a board, the members thereof shall serve until final

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141 action is taken by the board with respect to the purpose for
142 which the board was selected, at which time the board shall be
143 dissolved.

144 (3) PROCEDURE WITH RESPECT TO CAREER SERVICE APPEALS.--

145 (a) An appeal of an action specified in subsection (1)
146 shall be made to the Sheriff in writing and must be received by
147 the Sheriff no later than 3 working days after the employee is
148 notified of the action on which the appeal is based.

149 (b) A Career Service Appeals Board shall be selected and
150 must meet for purposes of hearing the appeal no later than 20
151 working days after receipt of an appeal by the Sheriff, unless
152 the employee requesting the hearing waives the time period, in
153 writing.

154 (c) During any hearing, the employee filing the appeal
155 shall have the right to be heard publicly, to be represented by
156 a person of his or her choice, and to present any evidential
157 facts in his or her behalf, and during such hearings the
158 technical rules of evidence shall not apply. The board shall, in
159 the conduct of such hearings, have the power to administer
160 oaths, issue subpoenas, compel the attendance of witnesses, and
161 require the production of books, records, accounts, papers,
162 documents, and testimony. In case of the disobedience of any
163 person to comply with an order of the board or a subpoena issued
164 by the board, or upon the refusal of a witness to testify on any
165 matter regarding which he or she may be lawfully interrogated, a
166 county judge of the county in which a person resides, upon
167 application of any member of the board, shall compel obedience
168 by proceeding as for contempt. Each witness who appears in

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169 obedience to a subpoena before the board shall receive
170 compensation for attendance fees and mileage as provided for
171 witnesses in civil cases in the courts of this state. Such
172 payments shall be made by the party calling the witness, except
173 that with respect to any witnesses called by the board, payments
174 shall be made by the Sheriff upon presentation of proper
175 vouchers and approval by three members of the board.

176 (d) Employees who have requested a Career Service Hearing
177 may be represented by an attorney or other qualified
178 representative, or the employee may represent himself or
179 herself. The standard required to prove misconduct is a
180 preponderance of the evidence and the procedure for closing
181 arguments shall be that, if the employee offers no testimony or
182 other evidence, the Sheriff shall have the first closing
183 argument and the employee shall follow the Sheriff. Should the
184 employee offer any witness testimony, including the employee's
185 testimony, or any other evidence, the employee shall have the
186 first closing argument and the Sheriff shall follow the
187 employee.

188 (e) A board shall, by majority vote, dispose of the appeal
189 for which it was appointed by making findings of fact and
190 issuing a written decision. Such decision shall either sustain
191 or not sustain the finding of cause. If a finding of cause is
192 not sustained by a board, the board shall order such remedial
193 action as is appropriate with regard to discipline, which may
194 include reinstatement with back pay, and may modify any
195 personnel action which was the subject of the appeal. If the
196 board sustains the finding by the Sheriff, it shall also

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197 determine the appropriateness of the discipline imposed by the
198 Sheriff. No board shall have the authority to impose on any
199 employee any discipline that is harsher than that which formed
200 the basis of the appeal. Under no circumstance shall the board
201 have the authority to circumvent, modify, alter, or otherwise
202 change the rules or policy of the Sheriff.

203 (f) The decision of the board shall be final and binding
204 on the employee and the Sheriff, unless a state court's
205 jurisdiction is invoked by appeal or certiorari to review the
206 board's action. If the court accepts jurisdiction, the board's
207 order shall be stayed pending completion of the court
208 proceedings.

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

210 (1) COMPLAINTS AGAINST EMPLOYEES.--A complaint receipt and
211 processing procedure shall be established by the Office of the
212 Sheriff in order to provide adequately for the prompt receipt,
213 investigation, and disposition of complaints against its
214 employees.

215 (2) PROCEDURE WITH RESPECT TO RECEIVING COMPLAINTS AGAINST
216 EMPLOYEES.--

217 (a) Any supervisor of the Office of the Wakulla County
218 Sheriff is authorized to receive a complaint against any other
219 employee of the Sheriff. All complaints shall be reduced to
220 writing and shall be resolved as provided herein.

221 (b) If a complaint is received by a supervisor during
222 normal working hours, the complaint shall be referred to the
223 supervisor of the employee against whom the complaint was
224 received. The supervisor may conduct an investigation to

225 determine if immediate action is needed to preserve the
226 integrity of the Office of Sheriff or the supervisor may refer
227 the complaint to Internal Affairs or to the appropriate
228 investigating unit within the agency.

229 (c) If a complaint is received after normal working hours,
230 it shall be referred to the shift supervisor. The shift
231 supervisor may conduct an investigation to determine if
232 immediate action is needed to preserve the integrity of the
233 Office of Sheriff. If immediate action is not required, the
234 complaint may be referred to Internal Affairs or to the
235 appropriate investigating unit within the agency at the
236 beginning of the next working day, or sooner if required.

237 (d) Upon completion of the investigation, the complaint
238 shall be reviewed by the Sheriff or by his or her designee. If
239 the Sheriff finds that a complaint is well founded and that a
240 violation has occurred, the Sheriff shall decide upon
241 appropriate disciplinary action, and the employee shall be
242 notified of the proposed disciplinary action as provided in
243 section 1.

244 (e) If a nonsworn employee is dissatisfied with the
245 decision of the Sheriff regarding disciplinary action resulting
246 from a complaint, he or she may appeal the action to a Career
247 Service Appeals Board.

248 (f) If an employee who is subject to the provisions of
249 section 112.532, Florida Statutes, is dissatisfied with the
250 decision of the Sheriff regarding disciplinary action resulting
251 from a complaint, he or she may appeal the action to a Career
252 Service Appeals Board.

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253 Section 4. All sworn and nonsworn persons in the employ of
254 the Office of the Sheriff who have served for a period of 1
255 calendar year or more as of the effective date of this act,
256 shall be permanent status employees subject to the provisions of
257 this act. All other employees shall become permanent employees
258 subject to the provisions of this act upon reaching their 1
259 calendar year service anniversary date.

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