

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

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) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--

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

49 (b) Any employee who has achieved permanent status in the  
50 Office of the Sheriff may only be suspended or dismissed for  
51 cause, provided that prior to such disciplinary action the  
52 employee must be furnished written notice of the proposed action  
53 and offered an opportunity to respond to the reasons for the  
54 suspension or dismissal. However, in extraordinary situations  
55 such as when delay could result in damage or injury, an employee  
56 may be suspended or dismissed for cause immediately and provided

57 notice thereof and reasons therefor within 24 hours. Cause for  
58 suspension or dismissal shall include, but not be limited to,  
59 negligence, inefficiency, or inability to perform assigned  
60 duties, insubordination, violation of the provisions of law or  
61 office rules, conduct unbecoming a public employee, misconduct,  
62 or habitual drug abuse. Cause for suspension or dismissal shall  
63 also include adjudication of guilt by a court of competent  
64 jurisdiction, a plea of guilty or nolo contendere, or a jury  
65 verdict of guilty when adjudication of guilt is withheld and the  
66 accused is placed on probation, with respect to any felony,  
67 misdemeanor, or major traffic infraction. The filing of felony,  
68 misdemeanor, or major traffic infraction charges against an  
69 employee shall constitute cause for suspension.

70 (3) TRANSITION OF EMPLOYEES.--When a newly elected or  
71 appointed Sheriff assumes office, the new Sheriff shall continue  
72 the employment of all currently employed permanent status  
73 personnel unless cause for dismissal, as provided herein,  
74 exists. However, the incoming Sheriff shall have the option of  
75 replacing the current personnel assigned to the positions of  
76 Sheriff's Executive Secretary, Chief Deputy, and Major. If the  
77 incoming Sheriff fills the Chief Deputy or Major positions with  
78 new personnel, the current occupants of those positions shall  
79 not be reduced lower than the rank of Captain, which rank shall  
80 be permanent unless later reduced by disciplinary demotion, and  
81 their salaries may be reduced accordingly. If the new Sheriff  
82 fills the Sheriff's Executive Secretary position with a new  
83 employee, the current occupant of the position shall be  
84 transferred to another position for which the employee is

85 qualified within the Office of the Sheriff. Actions taken  
 86 pursuant to this subsection shall not be appealable under  
 87 section 2.

88 (4) ADMINISTRATION.--

89 (a) The Sheriff shall have the authority to adopt such  
 90 rules and regulations as are necessary for the implementation  
 91 and administration of this act; however, nothing in this act  
 92 shall be construed as affecting the budgetmaking powers of the  
 93 Board of Commissioners of Wakulla County.

94 (b) Dismissals or demotions pursuant to across-the-board  
 95 actions directed by the Board of Commissioners of Wakulla County  
 96 resulting from county fiscal impacts shall not be appealable  
 97 under section 2.

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.--

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.

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

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

141 which the board was selected, at which time the board shall be  
142 dissolved.

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

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

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

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

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

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

186 (e) A board shall, by majority vote, dispose of the appeal  
187 for which it was appointed by making findings of fact and  
188 issuing a written decision. Such decision shall either sustain  
189 or not sustain the finding of cause. If a finding of cause is  
190 not sustained by a board, the board shall order such remedial  
191 action as is appropriate with regard to discipline, which may  
192 include reinstatement with back pay, and may modify any  
193 personnel action which was the subject of the appeal. If the  
194 board sustains the finding by the Sheriff, it shall also  
195 determine the appropriateness of the discipline imposed by the  
196 Sheriff. No board shall have the authority to impose on any

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

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

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

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

213 (2) PROCEDURE WITH RESPECT TO RECEIVING COMPLAINTS AGAINST  
 214 EMPLOYEES.--

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

219 (b) If a complaint is received by a supervisor during  
 220 normal working hours, the complaint shall be referred to the  
 221 supervisor of the employee against whom the complaint was  
 222 received. The supervisor may conduct an investigation to  
 223 determine if immediate action is needed to preserve the  
 224 integrity of the Office of Sheriff or the supervisor may refer



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225 the complaint to Internal Affairs or to the appropriate  
226 investigating unit within the agency.

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

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

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

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

251 Section 4. All sworn and nonsworn persons in the employ of  
252 the Office of the Sheriff who have served for a period of 1

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253 calendar year or more as of the effective date of this act,  
254 shall be permanent status employees subject to the provisions of  
255 this act. All other employees shall become permanent employees  
256 subject to the provisions of this act upon reaching their 1  
257 calendar year service anniversary date.

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