

By Senator Jones

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1 A bill to be entitled

2 An act relating to the Pinellas County Sheriff's Civil
3 Service System; amending chapter 89-404, Laws of Florida,
4 as amended; deleting intent relating to collective
5 bargaining; limiting application; revising the definition
6 of "personnel"; revising positions covered in the
7 Classified and Unclassified Services; providing effect of
8 participating in the Florida Retirement System's Senior
9 Management Class; providing for Certified Executive Staff;
10 providing additional causes for member suspension or
11 dismissal; providing duties of the Civil Service Board
12 regarding appeals; providing authority of the Division of
13 Administrative Hearings under certain circumstances;
14 revising provisions relating to the timeframe for filing a
15 notice of appeal and for disposing of appeals and making
16 findings of fact and stating a conclusion; revising civil
17 liability immunity applicability; removing a provision
18 relating to certified personnel status as appointed
19 officers; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Chapter 89-404, Laws of Florida, as amended by
24 chapter 90-395, Laws of Florida, is amended to read:

25 Section 1. Intent.--It is the intent of this act to create
26 a civil service system for members of the Classified Service, as
27 defined herein, within the service of the Sheriff of Pinellas
28 County, for the purposes of ensuring fairness and consistency in
29 discipline and dismissal. ~~It is also the intent of this act to~~

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30 ~~maintain the existing legal limitations on the right of~~
31 ~~collective bargaining and other rights under part II of chapter~~
32 ~~447, Florida Statutes, and to not grant such rights to any~~
33 ~~deputy, member, or personnel of the Office of the Pinellas County~~
34 ~~Sheriff who, prior to the effective date of this act, did not~~
35 ~~possess such rights pursuant to law.~~

36 Section 2. Personnel of Pinellas County Sheriff;
37 applicability of the act; authority of the Sheriff.--

38 (1) The provisions of this act shall apply to all
39 certified, noncertified, and Certified Executive Staff persons
40 within the Office of the Pinellas County Sheriff, except as
41 otherwise provided herein. The provisions of this act shall not
42 apply to the Sheriff, special deputy sheriffs appointed pursuant
43 to s. 30.09(4), Florida Statutes, contract personnel, the general
44 counsel, the associate general counsel, the director of human
45 resources, the director of support services, the director of
46 fiscal affairs, the public information coordinator, the director
47 of labor relations, the jail medical director, the grants
48 administrator, the sheriff's executive secretary, any person who
49 enters the Florida Retirement System's Senior Management Service
50 ~~legal advisors, chaplains,~~ or individuals appointed as part-time
51 deputy sheriffs, as defined by the Criminal Justice Standards and
52 Training Commission, unless any such part-time deputy sheriff is
53 also a full-time member in the Office of the Sheriff.

54 (2) For the purposes of this act, the term "personnel"
55 shall refer to all persons working for the Pinellas County
56 Sheriff's Office; ~~provided that nothing stated herein shall be~~
57 ~~construed as changing the status of certified personnel from~~

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58 ~~appointed officers to members covered by the provisions of~~
59 ~~chapter 447, Florida Statutes.~~

60 (3) The Sheriff shall have the authority to adopt such
61 rules and regulations as are necessary for the implementation and
62 administration of this act. However, nothing in this act shall be
63 construed as affecting the budgetmaking powers of the Board of
64 County Commissioners of Pinellas County.

65 Section 3. Classified and Unclassified Services; Certified
66 Executive Staff; status of members of the Classified Service,
67 Unclassified Service, and Certified Executive Staff.--

68 (1) The Classified Service shall consist of full-time
69 positions held by detention deputy sheriffs ~~corrections officers,~~
70 law enforcement deputy sheriffs, and noncertified personnel,
71 except those persons not covered by the act as set forth in
72 section 2(1), who have attained permanent status as defined
73 herein and who are serving in any position except those persons
74 serving in the Unclassified Service or as members of the
75 Sheriff's Certified Executive Staff.

76 (2) (a) The Unclassified Service shall consist of the
77 following positions: all part-time positions, all full-time
78 personnel who have not attained permanent status as defined
79 herein, all volunteer or unpaid ~~nonsalaried~~ positions, school
80 crossing guards, reserve deputies, ~~and~~ special deputies, and
81 personnel participating in the Florida Retirement System's Senior
82 Management Class subsequent to membership in the Classified
83 Service. Members of the Unclassified Service shall serve at the
84 pleasure of the Sheriff and may be suspended, demoted, or
85 terminated at any time without cause and without any right to
86 appeal to the Civil Service Board.

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87 (b) Consistent with the requirements of section
88 121.055(1)(c), Florida Statutes, all personnel who are members of
89 the Classified Service who elect to participate in the Florida
90 Retirement System's Senior Management Class, upon selection by
91 the Sheriff and approval by the Florida Retirement System, are no
92 longer members of the Classified Service and serve without civil
93 service protection upon the effective date of Senior Management
94 Class membership. As a member of the Senior Management Class,
95 personnel may be suspended, demoted, or terminated at any time
96 without cause and without any right to appeal to the Civil
97 Service Board.

98 (3) For the purposes of this act, the Sheriff's Certified
99 Executive Staff shall consist of all certified personnel who have
100 attained the rank of captain or above,~~the Public Information~~
101 ~~Coordinator, the Sheriff's executive secretary and all~~
102 ~~noncertified personnel whose salary is equal to or greater than~~
103 ~~the base salary for the rank of law enforcement captain.~~

104 (4) Members of the Sheriff's Certified Executive Staff
105 shall serve in those positions at the pleasure of the Sheriff.
106 Except as provided herein, such personnel may be suspended,
107 demoted, or dismissed at any time without cause and without any
108 right of appeal to the Civil Service Board. However, persons
109 serving as members of the Sheriff's Certified Executive Staff who
110 have, previous to their appointment to the Certified Executive
111 Staff, attained permanent status in the Classified Service may be
112 returned to the highest rank ~~or position~~ such person achieved in
113 the Classified Service without cause and without any right to
114 appeal such return to Classified Service.

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115 Section 4. Permanent status; effect of rehire; extension of
116 probation; status upon election or appointment of new Sheriff.--

117 (1) After ~~classified~~ personnel of the Sheriff, to whom the
118 provisions of this act apply, have served in any such position
119 for a period of 1 calendar year without break in service, such
120 personnel shall have attained permanent status in the Office of
121 the Sheriff, unless such personnel are placed on an extended
122 probation or have entered the Florida Retirement System's Senior
123 Management Class.

124 (2) When Classified Service personnel are terminated,
125 resign, or are otherwise separated from service, and are rehired
126 at a later date, they shall be required to complete 1 calendar
127 year of service, without break in service, following such rehire
128 before attaining permanent status in the Office of the Sheriff.

129 (3) Personnel in the Classified Service who are required to
130 serve a probationary period attendant to a promotion shall retain
131 permanent status in the Office of the Sheriff, but may be demoted
132 to their prior rank during such probationary period for any
133 reason and without the right of appeal as provided in this act.

134 (4) When, in the sole discretion of the Sheriff, an
135 extension of a probationary period for newly hired or newly
136 promoted personnel is warranted, such probationary period may be
137 extended for a period up to 6 additional months. In the case of
138 newly hired personnel, the affected personnel shall be required
139 to satisfactorily complete the extended probationary period
140 before attaining permanent status in the Office of the Pinellas
141 County Sheriff.

142 Section 5. Effect of election or appointment of new Sheriff
143 on status of personnel.--

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144 (1) When a newly elected or appointed Sheriff assumes
145 office, the new Sheriff shall continue the members of the
146 Classified Service at their existing rank and/or salary level
147 unless cause for demotion or dismissal, as provided herein,
148 exists.

149 (2) When a newly elected or appointed Sheriff assumes
150 office, persons then serving as members of the Sheriff's
151 Certified Executive Staff who, previous to their appointment to
152 the Certified Executive Staff, had attained permanent status in
153 the Classified Service, shall not be suspended without pay for
154 more than 1 working day or dismissed unless cause as provided
155 herein exists. However, such personnel may be demoted to the
156 highest rank achieved in the Classified Service without cause and
157 without any right to appeal.

158 Section 6. Members of Classified Service; certain members
159 of the Certified Executive Staff; suspension, demotion, or
160 dismissal only for cause.--

161 (1) Members of the Classified Service may only be
162 suspended, for a period in excess of 1 working day, reduced in
163 rank or base pay, or dismissed from service for cause. Members of
164 the Certified Executive Staff who have, previous to their
165 appointment to the Certified Executive Staff, achieved permanent
166 status in the Classified Service may only be dismissed or
167 suspended for a period in excess of 1 working day or demoted to a
168 rank or rate of base pay less than the highest rank or base pay
169 the member attained while in the Classified Service for cause.
170 Prior to such action described above, the member shall be
171 furnished with written notice of the proposed action and an
172 explanation of the reasons for the action, and offered an

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173 opportunity to respond to the reasons for the action. ~~However,~~
174 ~~nothing stated herein shall be construed as changing the status~~
175 ~~of deputy sheriffs from appointed officers to employees covered~~
176 ~~by the provisions of chapter 447, Florida Statutes.~~

177 (2) In situations where the delay occasioned by furnishing
178 members of the Classified Service personnel such written notice
179 and opportunity to respond could result in damage or injury,
180 personnel may be suspended or dismissed for cause immediately and
181 provided such written notice and opportunity to respond within 24
182 hours.

183 (3) Written notice of disciplinary action to a ~~department~~
184 member shall be deemed to be effective upon hand delivery, or
185 upon mailing to the member's last known address.

186 (4) Cause for suspension, dismissal, or demotion shall
187 include, but not be limited to: negligence, inefficiency, or
188 inadequate job performance; inability to perform assigned duties,
189 incompetence, dishonesty, insubordination, violation of the
190 provisions of law or the rules, regulations, and operating
191 procedures of the Office of the Sheriff, conduct unbecoming a
192 public servant, misconduct, or proof and/or admission of use of
193 illegal drugs. Cause for suspension or dismissal shall also
194 include a member's acceptance into a pretrial diversion or
195 intervention program, the adjudication of guilt by a court of
196 competent jurisdiction, a plea of guilty or of nolo contendere,
197 or a verdict of guilty where adjudication of guilt is withheld
198 and the accused is placed on probation, with respect to any
199 felony or misdemeanor. The filing of felony or misdemeanor
200 charges against Sheriff's Office personnel may also constitute
201 cause for suspension. Subsequent dropping of charges shall result

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202 in automatic reinstatement, except where charges were dropped
203 because of completion of a pretrial intervention or diversion
204 program, provided that independent departmental charges are not
205 pending.

206 (5) The listing of causes for suspension, demotion, or
207 dismissal in this section is not intended to be exclusive. The
208 Sheriff may, by departmental rule, add to this listing of causes
209 for suspension, dismissal, or demotion.

210 Section 7. Creation and qualifications of the Civil Service
211 Board.--

212 (1) The Sheriff of Pinellas County is hereby authorized to
213 create a Civil Service Board which shall be composed of five
214 members which shall be determined as follows:

215 (a) Two members of the Civil Service Board shall be
216 appointed by the Sheriff after being elected in an election among
217 the members of the Classified Service. The Sheriff shall appoint
218 the two persons receiving the highest number of votes in such
219 election.

220 (b) Two members shall be appointed by the Sheriff.

221 (c) The fifth member shall be selected by the majority of
222 the other four Board members within 15 days of their
223 appointments. In the event that the selection process of the
224 fifth member results in an impasse, within 15 days, the fifth
225 member shall be appointed by the Chief Judge of the Sixth
226 Judicial Circuit.

227 (d) The five members of the Board shall then select a sixth
228 or alternate member who shall serve upon the inability of any
229 other member to serve.

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230 (e) The fifth member shall be chairperson of the Civil
231 Service Board, unless the Board elects otherwise.

232 (f) Four members of the Civil Service Board shall
233 constitute a quorum.

234 (2) Membership qualifications and term:

235 (a) All members of the Civil Service Board shall be at
236 least 21 years of age, of good moral character, of good
237 reputation in the community, citizens of the United States,
238 permanent residents of Florida, and permanent residents of
239 Pinellas County for at least 2 years prior to the date of their
240 appointment.

241 (b) No member of the Board may be:

242 1. A member of any national, state, or county committee of
243 a political party;

244 2. A candidate for or incumbent of any elected public
245 office;

246 3. A member of the Pinellas County Sheriff's Office, or the
247 spouse, parent, grandparent, child, grandchild, brother, sister,
248 aunt, uncle, niece, or nephew, by consanguinity or affinity of a
249 member; or

250 4. Positioned as to have a conflict of interest in the
251 terms of his or her related business, duties, or responsibilities
252 in connection with the Civil Service Board.

253 (c) The members of the Board shall serve a term of 1 year
254 from the date of their election or appointment as the case may
255 be.

256 (d) Members of the Board will receive no salary, but will
257 be paid a stipend as determined by the Sheriff to offset expenses
258 incurred in performing the duties of the Civil Service Board.

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259 Section 8. Duties and authority of the Civil Service
260 Board.--

261 (1) The Civil Service Board shall have the following
262 authority and duties:

263 (a) To adopt and amend reasonable rules and regulations for
264 its hearing procedures.

265 (b) To hear all appeals of the members of the Classified
266 Service arising from personnel actions brought under the
267 Sheriff's rules, procedures, or policies which result in
268 dismissal, suspension for more than 1 working day without pay,
269 demotion, or reduction in base pay for disciplinary or job
270 performance reasons.

271 (c) To hear appeals of members of the Certified Executive
272 Staff who have, previous to their appointment to the Certified
273 Executive Staff, achieved permanent status in the Classified
274 Service, arising from personnel actions brought under the
275 Sheriff's rules, procedures, or policies which result in
276 dismissal or suspension for more than 1 working day or demotion
277 to base pay less than the highest rank or base pay the member
278 attained while in the Classified Service.

279 (d) To contract with the Division of Administrative
280 Hearings to have hearings conducted pursuant to chapter 120,
281 Florida Statutes, as provided in section 11(8).

282 (2) Other than those appeals specified herein ~~in subsection~~
283 ~~(1)~~, the Civil Service Board shall not have authority to hear
284 appeals.

285 (3) The authority of the Civil Service Board, and the
286 authority of the Division of Administrative Hearings acting under
287 contract, shall not include the establishment or deletion of the

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288 categories of conduct which constitute cause for suspension,
289 demotion, or dismissal. In hearing appeals, the Civil Service
290 Board shall:

291 (a) Determine whether the aggrieved member engaged in
292 conduct prohibited by section 6 or by a departmental rule
293 promulgated by the Sheriff;

294 (b) Determine whether the action taken against the
295 aggrieved member is consistent with action taken against other
296 members; and

297 (c) Make findings of fact and state a conclusion as
298 specified in subsection (6).

299 (4) The Civil Service Board may also provide assistance and
300 advice to the Sheriff in matters concerning disciplinary actions
301 and may take any other actions authorized by the Sheriff.

302 (5) The Civil Service Board, pursuant to its authority to
303 hear appeals of members of the Classified Service, shall have the
304 power to schedule hearings, administer oaths, take or allow the
305 taking of depositions, and issue subpoenas to compel the
306 attendance of witnesses and the production of books, accounts,
307 papers, records, documents, testimony, and other items to effect
308 such other discovery as it deems fit and proper upon the written
309 request of either party.

310 (a) The chairperson of the Civil Service Board or his or
311 her ~~his/her~~ designee shall be authorized to sign all notices,
312 subpoenas, and final orders, on behalf of the Board. In the case
313 of disobedience or failure of any person to comply with a
314 subpoena issued by the Board or any of its members, or upon the
315 refusal of a witness to testify on any matter on which he or she
316 may be lawfully interrogated, a Judge of the Circuit Court of

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317 Pinellas County, on application of the Civil Service Board, shall
318 compel obedience by proceedings as for contempt.

319 (b) The service of a subpoena shall be made in the manner
320 provided by the Florida Rules of Civil Procedure. Each witness
321 subpoenaed by the Civil Service Board shall receive for his or
322 her attendance, from the party requesting the subpoena, fees and
323 mileage in the amount as provided for witnesses in civil cases.
324 Personnel of the Sheriff's Office appearing before the Civil
325 Service Board while on duty shall not receive witness fees or
326 reimbursements for mileage.

327 (6) Within 10 days of the conclusion of the appeals
328 hearing, or receipt of the proposed recommended order from the
329 Division of Administrative Hearings, whichever is longer, unless
330 the parties agree to a longer period, the Civil Service Board, by
331 a majority vote, shall dispose of the appeal and shall make
332 findings of fact and state a conclusion; such findings of fact
333 and conclusion shall be separately stated and shall be in
334 writing. Such conclusion shall either sustain, modify, or not
335 sustain the action being appealed. Upon a finding that cause did
336 not exist for a suspension, demotion, reduction in pay, or
337 dismissal, the Civil Service Board shall reinstate the appellant
338 and direct the Sheriff to pay the appellant for the period of any
339 suspension, demotion, loss of pay, or dismissal. The Civil
340 Service Board shall not have the authority to impose any penalty
341 more severe than that which formed the basis of the appeal.
342 Should the Civil Service Board be unable to reach a majority
343 decision on any appeal, the personnel action taken shall be
344 sustained.

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345 (7) The decision of the Civil Service Board shall be final
346 and binding on all parties concerned.

347 Section 9. Appeals procedure.--

348 (1) A member of the Classified Service who has been
349 suspended without pay for more than 1 working day, demoted,
350 reduced in base pay, or dismissed, and those members of the
351 Certified Executive Staff to whom rights of appeal are granted
352 pursuant to section 3, may obtain a hearing before the Civil
353 Service Board by filing a written Notice of Appeal with the
354 Sheriff or his or her designee. Filing shall be effected by
355 delivery in person to the Sheriff or his or her designee, when
356 that person is designated by the Sheriff in writing, or by U.S.
357 mail, registered, return receipt requested. Such Notice of Appeal
358 shall be received by 5 p.m. on the fifth filed within 5 calendar
359 day after days of receipt of notice of the suspension, demotion,
360 reduction in pay, or dismissal. The day upon which the member
361 receives the notice of suspension, demotion, reduction in pay, or
362 dismissal shall not be counted in computing the 5 days, and the
363 5-day period shall begin on the first day after receipt of the
364 notice, regardless of whether that day is a weekend day or
365 holiday. The burden is on the member requesting the appeal
366 hearing to establish timely service in accordance with the
367 provisions herein. Failure to file a ~~said~~ written notice
368 requesting the appeal hearing as required within the 5-day period
369 prescribed herein shall constitute a voluntary waiver of all
370 rights to an appeal under this act.

371 (2) The Notice of Appeal shall contain:

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372 (a) A statement that the person filing the Notice of Appeal
373 is entitled to an appeal pursuant to the terms of this act as a
374 present or former member of the Classified Service;

375 (b) A statement of the disciplinary action complained of
376 and the basis for the appeal; and

377 (c) A request for relief consistent with relief that may be
378 ordered by the Civil Service Board as set forth herein.

379 (3) The appellant shall be limited in the scope of his or
380 her appeal to the issues raised in the Notice of Appeal.

381 Section 10. Settlements and precedent.--In order to
382 encourage resolutions of appeals prior to hearing, any settlement
383 of an appeal acceptable to the appellant shall not establish a
384 precedent against either the Sheriff, any member of the
385 Classified Service, or any member of the Certified Executive
386 Staff to whom the right of appeal is afforded by this act. Such
387 settlement shall not conflict in any manner with the provisions
388 of this act and shall not be used in any subsequent appeal
389 hearing.

390 Section 11. Hearing procedure.--

391 (1) The Civil Service Board shall commence a hearing on an
392 appeal within 30 days from the date upon which the Notice of
393 Appeal was received by the Sheriff, or his or her designee, and
394 shall proceed diligently to conclude such hearing in an
395 expeditious fashion while affording to all parties a full and
396 fair hearing. The Civil Service Board may grant a continuance of
397 a hearing for good cause shown upon its own or a party's motion.

398 (2) The Civil Service Board shall establish appropriate
399 rules and procedures for the conduct of all hearings pursuant to
400 this act. All testimony of the parties and witnesses shall be

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401 made under oath or affirmation. Hearsay evidence may be used for
402 the purpose of supplementing or explaining other evidence, but
403 shall not be sufficient in and of itself to support a finding
404 unless it would be admissible over objections in civil actions.

405 (3) Each party shall be entitled to call witnesses on his
406 or her own behalf, to compel the attendance of witnesses through
407 the service of subpoenas, to cross-examine the witnesses, to
408 represent himself or herself, or to be represented by any other
409 representative of his or her choosing, and to be present at such
410 hearing.

411 (4) Each party shall bear his or her own costs and fees
412 incurred with respect to such hearings. No costs or fees shall be
413 reimbursed by one party to the other regardless of the decision
414 of the Civil Service Board under this act.

415 (5) Appeal hearings shall be open to the public in
416 accordance with the provisions of chapter 286, Florida Statutes.

417 (6) The Civil Service Board, its members, the Sheriff,
418 witnesses while giving truthful testimony, and all the
419 representatives of the parties, in their individual and official
420 capacities, shall be immune from all civil liability arising from
421 actions taken pursuant to the provisions of this act.

422 (7) A tape recording shall be made of each Civil Service
423 Board hearing and minutes of the hearing shall be kept. Either
424 party shall be entitled to engage the services of a certified
425 court reporter to record such hearing. The party engaging
426 services of the court reporter shall be solely responsible for
427 payment for such services.

428 (8) The Civil Service Board may, upon stating its reasons,
429 elect at any stage of the hearing procedure to contract with the

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430 Division of Administrative Hearings of the Department of
431 Management Services Administration to have the hearing conducted
432 pursuant to chapter 120, Florida Statutes, in which case the
433 board shall limit its considerations to the findings and
434 recommendations of the division's ~~Department of Administration~~
435 hearing officer.

436 Section 12. Exemption from chapter 120, Florida
437 Statutes.--Unless the election is made to proceed under section
438 11(8), the actions of the Civil Service Board and the Sheriff
439 taken pursuant to this act shall be exempt from the provisions of
440 chapter 120, Florida Statutes.

441 Section 13. Members' Advisory Council.--There shall be a
442 five-person Members' Advisory Council, which shall serve in an
443 advisory capacity to the Sheriff concerning personnel matters,
444 policies, rules, and regulations affecting members of the
445 Classified Service. The departmental representation of the
446 Members' Advisory Council shall be determined by the Sheriff. All
447 members of the Members' Advisory Council shall be permanent
448 members of the department and members of the Classified Service.
449 One member shall be elected from each of five areas to be
450 determined by the Sheriff and shall be elected to serve by secret
451 ballot of all members of the Classified Service within each
452 respective area. Members of the Members' Advisory Council shall
453 serve a 1-year term of office beginning July 1 of each year. The
454 initial council shall serve from the date elected until July 1 of
455 the following year.

456 ~~Section 14. Certified personnel to maintain status as~~
457 ~~appointed officers. Nothing herein shall be construed as~~
458 ~~altering the traditional status of certified personnel as~~

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459 ~~appointed officers, who, as such, are excluded from coverage as~~
460 ~~employees under chapter 447, Florida Statutes.~~

461 Section 14 ~~15~~. Sheriff to adopt rules and regulations for
462 review of citizen complaints and other actions.--The Sheriff
463 shall, contemporaneous with the effective date of this act, by
464 department rule or regulation, establish a procedure to review
465 and resolve citizen complaints and disciplinary actions for which
466 an appeal is not provided by this act.

467 Section 15 ~~16~~. If any provision of this act or the
468 application thereof to any person or circumstance is held
469 invalid, the invalidity shall not affect other provisions or
470 applications of the act which can be given effect without the
471 invalid provision or application, and to this end the provisions
472 of this act are declared severable.

473 Section 16 ~~17~~. Chapter 84-514, Laws of Florida, as amended
474 by chapter 87-424, Laws of Florida, is hereby repealed.

475 Section 17 ~~18~~. This act shall take effect July 1, 1989, or
476 upon becoming a law, whichever occurs later.

477 Section 2. This act shall take effect upon becoming a law.