

1 A bill to be entitled
2 An act relating to Leon County; amending ch. 83-456,
3 Laws of Florida; providing for the Leon County
4 Sheriff's Office Career Service Employees' Act;
5 providing applicability; providing for permanent
6 status; providing cause for demotion or dismissal;
7 authorizing the Sheriff to promote, demote, transfer,
8 and determine disciplinary measures, including
9 dismissal; providing for transition to new sheriff;
10 providing beginning date of employees; revising
11 procedures of Career Service Appeals Boards; requiring
12 the Sheriff to be represented by the Sheriff's General
13 Counsel or other specified representative; prohibiting
14 certain evidence from inclusion; authorizing the
15 chairperson to rule on the admissibility of evidence;
16 exempting the actions of the board and the Sheriff
17 from the provisions of the Administrative Procedures
18 Act; deleting provisions relating to complaints
19 against employees, complaint review boards, and
20 employment status of commissioned and noncommissioned
21 employees; providing severability; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Chapter 83-456, Laws of Florida, is amended to
 27 read:

28 Section 1. ~~Employees of Leon County Sheriff's Office~~
 29 Career Service Employees' Sheriff; applicability of Act;
 30 ~~permanent status of employees; administration.-~~

31 (1) APPLICABILITY.—The transition provisions of this act
 32 shall apply to all full-time sworn ~~commissioned~~ and civilian
 33 employees ~~noncommissioned persons~~ in the employ of the ~~Office of~~
 34 ~~the Leon County Sheriff's Office Sheriff, including deputy~~
 35 ~~sheriffs~~. The provisions of this act shall not apply to the
 36 following: Sheriff, Undersheriff, sworn personnel of the rank of
 37 Captain or higher, Director of Public Information, civilian
 38 Directors, Sheriff's Executive Assistant, ~~or to~~ special deputy
 39 sheriffs appointed pursuant to s. 30.09(4), Florida Statutes,
 40 members of the Sheriff's Posse or Reserve Unit, and individuals
 41 appointed as part-time deputy sheriffs, as defined by the
 42 Criminal Justice Standards and Training Commission, unless ~~any~~
 43 such person is ~~also~~ employed full-time by the Leon County
 44 Sheriff's Office of the Sheriff. As used in this act, the terms
 45 "employee," "employ," ~~and~~ "employment," and "member" shall refer
 46 to all persons, ~~whether~~ employed or appointed, to whom the act
 47 applies. It is not, however, the intent of this act to grant the
 48 right ~~to~~ of collective bargaining to persons in the employ of
 49 the ~~Office of the Leon County Sheriff's Office Sheriff~~ who do
 50 not otherwise have that right pursuant to law.

51 (2) PERMANENT STATUS; CAUSE FOR DEMOTION ~~SUSPENSION~~ OR
 52 DISMISSAL.—

53 (a) After an employee of the Sheriff to whom the
 54 provisions of this act apply has served in such employment for a
 55 period of 1 calendar year, such employee shall have attained
 56 permanent status with ~~in~~ the Leon County Sheriff's Office ~~of the~~
 57 ~~Sheriff~~; provided ~~that~~ if such an employee is placed on
 58 disciplinary probation for a period of 6 months or more or is
 59 terminated and rehired at a later date, said employee shall be
 60 required to complete 1 calendar year of service from the date of
 61 the action before being granted permanent status and the right
 62 to of appeal, regardless of the reason for the disciplinary
 63 probation or termination ~~provided in Section 2~~. Any employee who
 64 is required to serve a probationary period attendant to a
 65 promotion shall retain permanent status in the Office of the
 66 Sheriff, but may be demoted to his or her prior rank during such
 67 probationary period without the right of appeal as provided in
 68 Section 3 ~~Section 2~~.

69 (b) Any employee who has achieved permanent status is not
 70 exempt from the disciplinary provisions outlined in the Leon
 71 County Sheriff's Office general orders. It is not a demotion
 72 under this act or the Leon County Sheriff's Office policy to be
 73 reassigned from special duties or from one shift or zone
 74 assignment to another or to be transferred from one division to
 75 another for the betterment of the Leon County Sheriff's Office,

76 even if a reduction in pay results of the Sheriff may only be
77 suspended or dismissed for cause; provided that prior to such
78 action, the employee must be furnished written notice of the
79 proposed action and offered an opportunity to respond to the
80 reasons for the suspension or dismissal. However, in
81 extraordinary situations, such as when delay could result in
82 damage or injury, an employee may be suspended or dismissed for
83 cause immediately and provided notice thereof and reasons
84 therefor within 24 hours afterwards. Cause for suspension or
85 dismissal shall include, but not be limited to, negligence,
86 inefficiency or inability to perform assigned duties,
87 insubordination, willful violation of the provisions of law or
88 Office rules, conduct unbecoming a public employee, misconduct,
89 or habitual drug abuse. Cause for suspension or dismissal shall
90 also include adjudication of guilt by a court of competent
91 jurisdiction, a plea of guilty or of nolo contendere, or a jury
92 verdict of guilty when adjudication of guilt is withheld and the
93 accused is placed on probation, with respect to any felony,
94 misdemeanor or major traffic infraction. The filing of felony,
95 misdemeanor, or major traffic infraction charges against an
96 employee shall constitute cause for suspension.

97 (c) The Sheriff shall hold the authority to promote,
98 demote, transfer, and determine disciplinary measures, including
99 dismissal.

100 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.—When a newly

101 | elected or appointed Sheriff assumes office, the new Sheriff
102 | shall continue the employment of all currently employed
103 | permanent personnel with the exceptions of those positions
104 | defined in subsection (1), unless there is just cause for
105 | dismissal, as set forth in Leon County Sheriff's Office general
106 | orders provided herein, exists. However, The new incoming
107 | Sheriff shall have the option of maintaining the current
108 | employees personnel assigned to exempt the positions of
109 | ~~Executive Secretary, Administrative Major, and Operations Major.~~
110 | If the new incoming Sheriff fills the exempt sworn staff Major
111 | positions with new members personnel, the new Sheriff has the
112 | option of dismissing the prior current occupants of those
113 | positions from employment, demoting the prior occupant to a
114 | prior permanent non-exempt position or shall be reduced to the
115 | rank held prior to appointment to exempt status, reducing the
116 | person in of Captain, which rank to the rank of deputy sheriff,
117 | or offering the prior occupant a transfer to any position for
118 | which they may be qualified and paid at a rate commensurate
119 | therewith shall be permanent unless later reduced by
120 | disciplinary demotion, and their salaries may be reduced
121 | accordingly. If the new incoming Sheriff so desires, exempt non-
122 | sworn civilian employees may fills the Executive Secretary
123 | position with a new employee, the current occupant of the
124 | position shall be transferred to positions another position for
125 | which they may be the employee is qualified and paid at a rate

126 commensurate therewith ~~within the Office of the Sheriff~~. Actions
127 taken pursuant to this section ~~subsection~~ affecting the exempt
128 ~~Major~~ positions are and ~~the Executive Secretary position shall~~
129 not ~~be~~ appealable ~~under Section 2~~.

130 (4) ADMINISTRATION.—The Sheriff shall have the authority
131 to adopt such rules and regulations as are necessary for the
132 implementation and administration of this act; however, nothing
133 in this act shall be construed as affecting the budget-making
134 powers of the Board of County Commissioners of Leon County.

135 Section 2. Beginning date.—

136 (1) All sworn and civilian persons in the employ of the
137 Leon County Sheriff's Office on the effective date of this act
138 who have served for a period of 1 calendar year or more as of
139 such date shall be permanent employees subject to the provisions
140 of this act. All other employees shall become permanent
141 employees subject to the provisions of this act upon reaching
142 their 1 calendar year service anniversary date. Promotions,
143 probationary service periods, demotions, transfers, and
144 suspensions will not and do not affect the determination of the
145 original career service beginning date (anniversary date) of
146 employment for Leon County Sheriff's Office employees. The
147 beginning date (anniversary date) of employment for sworn
148 employees is and will be the date the Sheriff swears the
149 officers in as law enforcement officers. The beginning of
150 service for civilian employees will be the beginning date

151 (anniversary date) as indicated by personnel and payroll
 152 records.

153 (2) Any provisions of this act shall not add to or detract
 154 from the constitutional authority of the Sheriff.

155 Section 3. Section 2. Career Service Appeals Board ~~Boards~~;
 156 creation; membership; procedures ~~duties~~.-

157 (1) FUNCTION OF BOARDS.-Ad hoc Career Service Appeals
 158 Boards shall be appointed as provided herein for the purpose of
 159 hearing appeals of permanent employees arising from personnel
 160 actions brought under Office rules or policies which result in
 161 dismissal, suspension, demotion, or reduction in pay; provided
 162 that reprimands, oral or written, and suspensions of 3 ~~5~~ working
 163 days or less shall not be appealable to a Board. Any such Board
 164 may also provide assistance and advice to the Sheriff in matters
 165 concerning disciplinary actions, and may take any other action
 166 authorized by the Sheriff.

167 (2) MEMBERSHIP OF BOARDS.-When needed upon the call of the
 168 Sheriff, or upon the filing of an appeal, an ad hoc Career
 169 Service Appeals Board shall be appointed. The membership of each
 170 such Board shall consist of five employees of the Office of the
 171 Sheriff. Two members shall be selected by the Sheriff, two
 172 members shall be selected by the employee filing the appeal, and
 173 the fifth member, who shall serve as chairperson ~~chairman~~ of the
 174 Board, shall be selected by the other four members. The ranking
 175 officer in charge of personnel shall serve as an ex officio

176 member of the Board, but shall have no vote. Any employee shall
177 have the right to decline to serve as a member of a Board, and
178 employees selected to serve on a Board shall serve without
179 additional compensation or overtime compensation with respect to
180 such service. Once selected to a board, the members thereof
181 shall serve until final action is taken by the Board with
182 respect to the purpose for which the Board was selected, at
183 which time the Board shall be dissolved.

184 (3) PROCEDURE WITH RESPECT TO APPEALS.—

185 (a) An appeal of an action specified in (1) shall be made
186 to the Sheriff in writing, and must be received within ~~by the~~
187 ~~Sheriff no later than~~ 3 business working days after the employee
188 is notified of the action on which the appeal is based. Business
189 days are Monday through Friday, excluding holidays recognized by
190 the Leon County Sheriff's Office.

191 (b) A Career Service Appeals Board shall be selected and
192 must meet for purposes of hearing the appeal no later than 15
193 business working days after receipt of an appeal by the Sheriff.
194 The ranking officer in charge of personnel is responsible for
195 scheduling the date, time, and location of meetings; notifying
196 members of the Career Service Appeals Board; and posting such
197 notice as may be required by law. In the case of an unpaid
198 suspension, the disciplinary action shall be stayed pending the
199 completion of the review process.

200 (c) During any hearing, the employee filing the appeal

201 shall have the right to be heard publicly, to be represented by
202 a person of his or her choice, and to present any evidential
203 facts on ~~in~~ his or her behalf. The Sheriff will be represented
204 by the Sheriff's General Counsel or other representative
205 designated by the Sheriff. ~~and~~ During such hearings the
206 technical rules of evidence shall not apply. However,
207 irrelevant, immaterial, or unduly repetitious evidence shall be
208 excluded. All other evidence as would be admissible in the
209 courts of Florida shall be admissible. Hearsay evidence may be
210 introduced and used. The chairperson will rule on the
211 admissibility of evidence if objections are raised. The Board
212 shall, in the conduct of such hearings, have the power to
213 administer oaths, issue subpoenas, compel the attendance of
214 witnesses, and require the production of books, records,
215 accounts, papers, documents, and testimony. In case of
216 disobedience of any person to comply with an order of the Board
217 or a subpoena issued by the Board, or upon the refusal of a
218 witness to testify on any matter regarding which he or she may
219 be lawfully interrogated, a County Judge of the county in which
220 a person resides, upon application of the chairperson ~~any member~~
221 of the Board, shall compel obedience by proceeding as for
222 contempt. Each witness who appears in obedience to a subpoena
223 before the Board shall receive compensation for attendance fees
224 and mileage as provided for witnesses in civil cases in the
225 courts of this state. Such payments shall be made by the party

226 calling the witness; except that with respect to any witnesses
227 called by the Board, payments shall be made by the Sheriff upon
228 presentation of proper vouchers and approval by three members of
229 the Board.

230 (d) A Board shall by majority vote dispose of the appeal
231 for which it was appointed by making findings of fact and
232 issuing a written decision. Such decision shall either sustain
233 or not sustain the disciplinary action being appealed. If an
234 action by the Sheriff is not sustained by a Board, the Board
235 shall order such remedial action as is appropriate, which may
236 include reinstatement with back pay, and may modify any
237 personnel action which was the subject of the appeal. No Board
238 shall have the authority to impose on any employee any penalty
239 which is more harsh than that which formed the basis of the
240 appeal.

241 (e) The decision of the Board shall be final and binding
242 on the employee and the Sheriff.

243 (f) The actions of the Board and the Sheriff shall be
244 exempt from the provisions of chapter 120, Florida Statutes.

245 ~~Section 3. Complaints against employees; procedure;~~
246 ~~Complaint Review Board.~~

247 ~~(1) COMPLAINTS AGAINST EMPLOYEES.—A complaint receipt and~~
248 ~~processing procedure shall be established in order to provide~~
249 ~~adequately for the prompt receipt, investigation, and~~
250 ~~disposition of complaints against employees of the Office of the~~

251 ~~Leon County Sheriff.~~

252 ~~(2) PROCEDURE WITH RESPECT TO COMPLAINTS.~~

253 ~~(a) Any employee of the Sheriff is authorized to receive a~~
254 ~~complaint against any other employee of the Sheriff. All~~
255 ~~complaints shall be reduced to writing and shall be resolved as~~
256 ~~provided herein:~~

257 ~~1. If a complaint is received by an employee during normal~~
258 ~~working hours, the complaint shall be referred to the~~
259 ~~appropriate Division Commander unless the receiving employee is~~
260 ~~able to resolve the complaint, in which case the complaint and~~
261 ~~resolution shall be reported in writing to the Division~~
262 ~~Commander. If the complainant wishes to see the Sheriff, he~~
263 ~~shall be accommodated.~~

264 ~~2. If a complaint is received after normal working hours,~~
265 ~~it shall be referred to the Watch Commander unless the receiving~~
266 ~~employee is able to resolve the complaint, in which case the~~
267 ~~complaint and resolution shall be reported in writing to the~~
268 ~~Watch Commander. The Watch Commander, in his discretion, shall~~
269 ~~conduct an investigation to determine if immediate action is~~
270 ~~needed to preserve the integrity of the Office of the Sheriff.~~
271 ~~If immediate action is not required, the complaint shall be~~
272 ~~referred to the appropriate Division Commander at the beginning~~
273 ~~of the next working day, or sooner if required.~~

274 ~~(b) All complaints shall be reviewed by the Sheriff. If~~
275 ~~the Sheriff has reason to believe that the complaint is well~~

276 ~~founded, he shall review the complaint with the employee's~~
277 ~~appropriate chain of command.~~

278 ~~(c) If the Sheriff finds the complaint to be unfounded, a~~
279 ~~written report shall be filed for information only, and a copy~~
280 ~~of the report shall be given to the employee.~~

281 ~~(d) If the Sheriff finds that a complaint is well founded~~
282 ~~and that a violation has occurred, the Sheriff shall decide upon~~
283 ~~appropriate disciplinary action, and the employee shall be~~
284 ~~notified of the proposed disciplinary action as provided in~~
285 ~~Section 1.~~

286 ~~(e) If a nonsworn employee is dissatisfied with the~~
287 ~~decision of the Sheriff regarding disciplinary action resulting~~
288 ~~from a complaint, he may appeal the action to a Career Service~~
289 ~~Appeals Board.~~

290 ~~(f) If an employee who is subject to the provisions of s.~~
291 ~~112.532, Florida Statutes, is dissatisfied with the decision of~~
292 ~~the Sheriff regarding disciplinary action resulting from a~~
293 ~~complaint, he may appeal the action to a Career Service Appeals~~
294 ~~Board, or he may first request a Complaint Review Board under~~
295 ~~the provisions of s. 112.532, Florida Statutes, as provided in~~
296 ~~Section 4.~~

297 ~~Section 4. Complaint Review Boards; membership;~~
298 ~~procedure.—~~

299 ~~(1) BOARDS; MEMBERSHIP.—If any employee who is subject to~~
300 ~~the provisions of s. 112.532, Florida Statutes, requests a~~

301 ~~Complaint Review Board as provided in Section 3, the Sheriff~~
302 ~~shall so call. Such a board shall be composed of the following~~
303 ~~personnel, all of whom shall be law enforcement officers as~~
304 ~~defined by the Criminal Justice Standards and Training~~
305 ~~Commission, and who may be selected from any state, county, or~~
306 ~~municipal agency within Leon County:~~

307 ~~(a) Two members selected by the Sheriff, not from the~~
308 ~~employee's chain of command;~~

309 ~~(b) Two members selected by the employee; and~~

310 ~~(c) A fifth member mutually selected by the other four~~
311 ~~members, provided that the fifth member shall serve as chairman~~
312 ~~of the Board and may be selected from the employee's chain of~~
313 ~~command.~~

314 ~~(d) The ranking officer in charge of personnel shall serve~~
315 ~~as an ex officio member of the Board, but shall have no vote.~~

316 ~~(2) PROCEDURE WITH RESPECT TO COMPLAINTS.—~~

317 ~~(a) A Complaint Review Board shall hear all of the facts~~
318 ~~contained in the accusation against the employee. The accused~~
319 ~~shall be present during the presentation of all allegations,~~
320 ~~witnesses, and evidence and shall have the right to question the~~
321 ~~accuser and all witnesses and to present any witnesses in his~~
322 ~~own behalf. The Board shall also have the right to question the~~
323 ~~accuser and all witnesses.~~

324 ~~(b) A Complaint Review Board, based upon its~~
325 ~~investigations and deliberations, shall determine by majority~~

326 ~~vote whether the complaint is:~~

327 ~~1. "Unfounded," if the complaint is conclusively proved to~~
 328 ~~be unfounded.~~

329 ~~2. "Not Sustained," if the evidence is insufficient to~~
 330 ~~clearly prove or disprove the allegation;~~

331 ~~3. "Sustained," if there is sufficient evidence to clearly~~
 332 ~~prove the complaint; or~~

333 ~~4. That the accused is "exonerated" if the acts which were~~
 334 ~~the basis of the complaint occurred, but were justified, proper,~~
 335 ~~and lawful.~~

336 ~~(c) If a Board finds that an accused is "exonerated," or~~
 337 ~~that a complaint is "unfounded" or "not sustained," it shall~~
 338 ~~forward written notice thereof to the Sheriff and to the~~
 339 ~~employee within 24 hours after the decision is reached.~~

340 ~~(d)1. If a Board finds that a complaint is "sustained," it~~
 341 ~~shall submit to the Sheriff and to the employee within 24 hours~~
 342 ~~after reaching the decision written findings stating the law,~~
 343 ~~rule, regulation or policy violated, as well as any~~
 344 ~~recommendations regarding disciplinary action to be taken~~
 345 ~~against the accused.~~

346 ~~2. The Sheriff, after notification of a finding of~~
 347 ~~"sustained," shall consult with the employee's chain of command~~
 348 ~~to review the findings and recommendations of the Board, and the~~
 349 ~~Sheriff may take such disciplinary action as he deems~~
 350 ~~appropriate.~~

351 ~~3. The decision of the Sheriff with respect to the~~
352 ~~findings of a Board and resulting disciplinary action may be~~
353 ~~appealed to a Career Service Appeals Board pursuant to Section~~
354 ~~2. If such an appeal is taken, no findings or recommendations by~~
355 ~~the Complaint Review Board with respect to the case shall be~~
356 ~~considered by the Career Service Appeals Board in its~~
357 ~~proceedings.~~

358 ~~Section 5. All commissioned and noncommissioned persons in~~
359 ~~the employ of the Office of the Sheriff of Leon County on the~~
360 ~~effective date of this act who have served for a period of 1~~
361 ~~calendar year or more as of such date shall be permanent~~
362 ~~employees subject to the provisions of this act. All other~~
363 ~~employees shall become permanent employees subject to the~~
364 ~~provisions of this act upon reaching their 1 calendar year~~
365 ~~service anniversary date.~~

366 Section 2. The provisions of this act are severable and if
367 any provision is held unconstitutional, the decision of the
368 court regarding that provision shall not affect the validity of
369 the remaining provisions. It is hereby declared to be the intent
370 of the Legislature that the remaining provisions of the act
371 would have been adopted had such unconstitutional provisions not
372 been included herein.

373 Section 3. This act shall take effect upon becoming a law.