

1 A bill to be entitled
 2 An act relating to Leon County; amending ch. 83-456,
 3 Laws of Florida; providing applicability; providing
 4 for permanent status; providing cause for suspension
 5 or dismissal; providing for transition to new Sheriff;
 6 providing beginning date of employees; revising
 7 procedures of Career Service Appeals Boards; requiring
 8 the Sheriff to be represented by the Sheriff's General
 9 Counsel or other specified representative; prohibiting
 10 certain evidence from inclusion; authorizing the
 11 chairperson to rule on the admissibility of evidence;
 12 deleting provisions relating to complaints against
 13 employees, Complaint Review Boards, and employment
 14 status of commissioned and noncommissioned employees;
 15 providing severability; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:
 18

19 **Section 1. Chapter 83-456, Laws of Florida, is amended to**
 20 **read:**

21 Section 1. ~~Employees of Leon County Sheriff's Office~~
 22 ~~Career Service Employees' Sheriff; applicability of Act;~~
 23 ~~permanent status of employees; administration.-~~

24 (1) APPLICABILITY.—The transition provisions of this act
 25 shall apply to all full-time sworn ~~commissioned~~ and civilian

26 ~~employees noncommissioned persons~~ in the employ of the ~~Office of~~
27 the Leon County Sheriff's Office ~~Sheriff~~, including deputy
28 ~~sheriffs~~. The provisions of this act shall not apply to the
29 following: Sheriff, sworn personnel of the rank of captain or
30 higher, civilian personnel of the rank of director or higher; or
31 to special deputy sheriffs appointed pursuant to s. 30.09(4),
32 Florida Statutes, members of the Sheriff's Posse or Reserve
33 Unit, and individuals appointed as part-time deputy sheriffs, as
34 defined by the Criminal Justice Standards and Training
35 Commission, unless ~~any~~ such person is ~~also~~ employed full-time by
36 the Leon County Sheriff's Office ~~of the Sheriff~~. As used in this
37 act, the terms "employee," "employ," ~~and~~ "employment," and
38 "member" shall refer to all persons, whether employed or
39 appointed, to whom the act applies. It is not, however, the
40 intent of this act to grant the right to ~~of~~ collective
41 bargaining to persons in the employ of the ~~Office of the~~ Leon
42 County Sheriff's Office ~~Sheriff~~ who do not otherwise have that
43 right pursuant to law.

44 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.—

45 (a) After an employee of the Sheriff to whom the
46 provisions of this act apply has served in such employment for a
47 period of 1 calendar year, such employee shall have attained
48 permanent status with ~~in~~ the Leon County Sheriff's Office ~~of the~~
49 ~~Sheriff~~; provided ~~that~~ if such an employee is placed on
50 disciplinary probation for a period of 6 months or more or is

51 terminated and rehired at a later date, said employee shall be
52 required to complete 1 calendar year of service from the date of
53 the action before being granted permanent status and the right
54 to of appeal, regardless of the reason for the disciplinary
55 probation or termination ~~provided in Section 2~~. Any employee who
56 is required to serve a probationary period attendant to a
57 promotion shall retain permanent status in the Office of the
58 Sheriff, but may be demoted to his or her prior rank during such
59 probationary period without the right of appeal as provided in
60 Section 3 ~~Section 2~~.

61 (b) Any employee who has achieved permanent status in the
62 Leon County Sheriff's Office ~~of the Sheriff~~ may only be
63 suspended or dismissed for cause; provided that prior to such
64 action, the employee must be furnished written notice of the
65 proposed action and offered an opportunity to respond to the
66 reasons for the suspension or dismissal. However, in
67 extraordinary situations, such as when delay could result in
68 damage or injury, an employee may be suspended or dismissed for
69 cause immediately and provided notice thereof and reasons
70 therefor within 24 hours afterwards. Cause for suspension or
71 dismissal shall include, but not be limited to, negligence,
72 inefficiency or inability to perform assigned duties,
73 insubordination, willful violation of the provisions of law or
74 Office rules, conduct unbecoming a public employee, misconduct,
75 or habitual drug abuse. Cause for suspension or dismissal shall

76 | also include adjudication of guilt by a court of competent
 77 | jurisdiction, a plea of guilty or of nolo contendere, or a jury
 78 | verdict of guilty when adjudication of guilt is withheld and the
 79 | accused is placed on probation, with respect to any felony,
 80 | misdemeanor or major traffic infraction. The filing of felony,
 81 | misdemeanor, or major traffic infraction charges against an
 82 | employee shall constitute cause for suspension.

83 | (3) TRANSITION OF CAREER SERVICE EMPLOYEES.—When a newly
 84 | elected or appointed Sheriff assumes office, the new Sheriff
 85 | shall continue the employment of all currently employed
 86 | permanent personnel with the exceptions of those positions
 87 | defined in subsection (1), unless there is just cause for
 88 | dismissal, provided herein, exists. ~~However,~~ The new incoming
 89 | Sheriff shall have the option of maintaining the current
 90 | employees personnel assigned to exempt the positions of
 91 | ~~Executive Secretary, Administrative Major, and Operations Major.~~
 92 | If the new incoming Sheriff fills the exempt sworn staff Major
 93 | positions with new members personnel, the new Sheriff has the
 94 | option of dismissing the prior current occupants of those
 95 | positions from employment, demoting the prior occupant to a
 96 | prior permanent non-exempt position or rank held prior to
 97 | appointment to exempt status, reducing the person to the rank of
 98 | deputy sheriff, or offering the prior occupant a transfer to any
 99 | position for which he or she may be qualified and paid at a rate
 100 | commensurate therewith shall be reduced to the rank of Captain,

101 ~~which rank shall be permanent unless later reduced by~~
102 ~~disciplinary demotion, and their salaries may be reduced~~
103 ~~accordingly. If the new incoming Sheriff so desires, exempt non-~~
104 ~~sworn civilian employees may fills the Executive Secretary~~
105 ~~position with a new employee, the current occupant of the~~
106 ~~position shall be transferred to positions another position for~~
107 ~~which they may be the employee is qualified and paid at a rate~~
108 ~~commensurate therewith within the Office of the Sheriff. Actions~~
109 ~~taken pursuant to this section subsection affecting the exempt~~
110 ~~Major positions are and the Executive Secretary position shall~~
111 ~~not be appealable under Section 2.~~

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

117 Section 2. Beginning date.—

118 (1) All sworn and civilian persons in the employ of the
119 Leon County Sheriff's Office on the effective date of this act
120 who have served for a period of 1 calendar year or more as of
121 such date shall be permanent employees subject to the provisions
122 of this act. All other employees shall become permanent
123 employees subject to the provisions of this act upon reaching
124 their 1 calendar year service anniversary date. Promotions,
125 probationary service periods, demotions, transfers, and

126 suspensions will not and do not affect the determination of the
127 original career service beginning date (anniversary date) of
128 employment for Leon County Sheriff's Office employees. The
129 beginning date (anniversary date) of employment for sworn
130 employees is and will be the date the Sheriff swears the
131 officers in as law enforcement officers. The beginning of
132 service for civilian employees will be the beginning date
133 (anniversary date) as indicated by personnel and payroll
134 records.

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

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

139 (1) FUNCTION OF BOARDS.—Ad hoc Career Service Appeals
140 Boards shall be appointed as provided herein for the purpose of
141 hearing appeals of permanent employees arising from personnel
142 actions brought under Office rules or policies which result in
143 dismissal, suspension, demotion, or reduction in pay; provided
144 that reprimands, oral or written, and suspensions of 3 ~~5~~ working
145 days or less shall not be appealable to a Board. Any such Board
146 may also provide assistance and advice to the Sheriff in matters
147 concerning disciplinary actions, and may take any other action
148 authorized by the Sheriff.

149 (2) MEMBERSHIP OF BOARDS.—When needed upon the call of the
150 Sheriff, or upon the filing of an appeal, an ad hoc Career

151 Service Appeals Board shall be appointed. The membership of each
152 such Board shall consist of five employees of the Office of the
153 Sheriff. Two members shall be selected by the Sheriff, two
154 members shall be selected by the employee filing the appeal, and
155 the fifth member, who shall serve as chairperson ~~chairman~~ of the
156 Board, shall be selected by the other four members. The ranking
157 officer in charge of personnel shall serve as an ex officio
158 member of the Board, but shall have no vote. Any employee shall
159 have the right to decline to serve as a member of a Board, and
160 employees selected to serve on a Board shall serve without
161 additional compensation or overtime compensation with respect to
162 such service. Once selected to a board, the members thereof
163 shall serve until final action is taken by the Board with
164 respect to the purpose for which the Board was selected, at
165 which time the Board shall be dissolved.

166 (3) PROCEDURE WITH RESPECT TO APPEALS.—

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

173 (b) A Career Service Appeals Board shall be selected and
174 must meet for purposes of hearing the appeal no later than 15
175 business ~~working~~ days after receipt of an appeal by the Sheriff.

176 The ranking officer in charge of personnel is responsible for
177 scheduling the date, time, and location of meetings; notifying
178 members of the Career Service Appeals Board; and posting such
179 notice as may be required by law. In the case of an unpaid
180 suspension, the disciplinary action shall be stayed pending the
181 completion of the review process.

182 (c) During any hearing, the employee filing the appeal
183 shall have the right to be heard publicly, to be represented by
184 a person of his or her choice, and to present any evidential
185 facts on ~~in~~ his or her behalf. The Sheriff will be represented
186 by the Sheriff's General Counsel or other representative
187 designated by the Sheriff.~~and~~ During such hearings the
188 technical rules of evidence shall not apply. However,
189 irrelevant, immaterial, or unduly repetitious evidence shall be
190 excluded. All other evidence as would be admissible in the
191 courts of Florida shall be admissible. Hearsay evidence may be
192 introduced and used. The chairperson will rule on the
193 admissibility of evidence if objections are raised. The Board
194 shall, in the conduct of such hearings, have the power to
195 administer oaths, issue subpoenas, compel the attendance of
196 witnesses, and require the production of books, records,
197 accounts, papers, documents, and testimony. In case of
198 disobedience of any person to comply with an order of the Board
199 or a subpoena issued by the Board, or upon the refusal of a
200 witness to testify on any matter regarding which he or she may

201 be lawfully interrogated, a County Judge of the county in which
202 a person resides, upon application of the chairperson ~~any member~~
203 of the Board, shall compel obedience by proceeding as for
204 contempt. Each witness who appears in obedience to a subpoena
205 before the Board shall receive compensation for attendance fees
206 and mileage as provided for witnesses in civil cases in the
207 courts of this state. Such payments shall be made by the party
208 calling the witness; except that with respect to any witnesses
209 called by the Board, payments shall be made by the Sheriff upon
210 presentation of proper vouchers and approval by three members of
211 the Board.

212 (d) A Board shall by majority vote dispose of the appeal
213 for which it was appointed by making findings of fact and
214 issuing a written decision. Such decision shall either sustain
215 or not sustain the disciplinary action being appealed. If an
216 action by the Sheriff is not sustained by a Board, the Board
217 shall order such remedial action as is appropriate, which may
218 include reinstatement with back pay, and may modify any
219 personnel action which was the subject of the appeal. No Board
220 shall have the authority to impose on any employee any penalty
221 which is more harsh than that which formed the basis of the
222 appeal.

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

225 ~~Section 3. Complaints against employees; procedure;~~

226 ~~Complaint Review Board.~~

227 ~~(1) COMPLAINTS AGAINST EMPLOYEES. A complaint receipt and~~
228 ~~processing procedure shall be established in order to provide~~
229 ~~adequately for the prompt receipt, investigation, and~~
230 ~~disposition of complaints against employees of the Office of the~~
231 ~~Leon County Sheriff.~~

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

233 ~~(a) Any employee of the Sheriff is authorized to receive a~~
234 ~~complaint against any other employee of the Sheriff. All~~
235 ~~complaints shall be reduced to writing and shall be resolved as~~
236 ~~provided herein:~~

237 ~~1. If a complaint is received by an employee during normal~~
238 ~~working hours, the complaint shall be referred to the~~
239 ~~appropriate Division Commander unless the receiving employee is~~
240 ~~able to resolve the complaint, in which case the complaint and~~
241 ~~resolution shall be reported in writing to the Division~~
242 ~~Commander. If the complainant wishes to see the Sheriff, he~~
243 ~~shall be accommodated.~~

244 ~~2. If a complaint is received after normal working hours,~~
245 ~~it shall be referred to the Watch Commander unless the receiving~~
246 ~~employee is able to resolve the complaint, in which case the~~
247 ~~complaint and resolution shall be reported in writing to the~~
248 ~~Watch Commander. The Watch Commander, in his discretion, shall~~
249 ~~conduct an investigation to determine if immediate action is~~
250 ~~needed to preserve the integrity of the Office of the Sheriff.~~

251 ~~If immediate action is not required, the complaint shall be~~
252 ~~referred to the appropriate Division Commander at the beginning~~
253 ~~of the next working day, or sooner if required.~~

254 ~~(b) All complaints shall be reviewed by the Sheriff. If~~
255 ~~the Sheriff has reason to believe that the complaint is well~~
256 ~~founded, he shall review the complaint with the employee's~~
257 ~~appropriate chain of command.~~

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

261 ~~(d) If the Sheriff finds that a complaint is well founded~~
262 ~~and that a violation has occurred, the Sheriff shall decide upon~~
263 ~~appropriate disciplinary action, and the employee shall be~~
264 ~~notified of the proposed disciplinary action as provided in~~
265 ~~Section 1.~~

266 ~~(e) If a nonsworn employee is dissatisfied with the~~
267 ~~decision of the Sheriff regarding disciplinary action resulting~~
268 ~~from a complaint, he may appeal the action to a Career Service~~
269 ~~Appeals Board.~~

270 ~~(f) If an employee who is subject to the provisions of s.~~
271 ~~112.532, Florida Statutes, is dissatisfied with the decision of~~
272 ~~the Sheriff regarding disciplinary action resulting from a~~
273 ~~complaint, he may appeal the action to a Career Service Appeals~~
274 ~~Board, or he may first request a Complaint Review Board under~~
275 ~~the provisions of s. 112.532, Florida Statutes, as provided in~~

276 ~~Section 4.~~

277 ~~Section 4. Complaint Review Boards; membership;~~
 278 ~~procedure.—~~

279 ~~(1) BOARDS; MEMBERSHIP. If any employee who is subject to~~
 280 ~~the provisions of s. 112.532, Florida Statutes, requests a~~
 281 ~~Complaint Review Board as provided in Section 3, the Sheriff~~
 282 ~~shall so call. Such a board shall be composed of the following~~
 283 ~~personnel, all of whom shall be law enforcement officers as~~
 284 ~~defined by the Criminal Justice Standards and Training~~
 285 ~~Commission, and who may be selected from any state, county, or~~
 286 ~~municipal agency within Leon County:~~

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

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

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

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

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

297 ~~(a) A Complaint Review Board shall hear all of the facts~~
 298 ~~contained in the accusation against the employee. The accused~~
 299 ~~shall be present during the presentation of all allegations,~~
 300 ~~witnesses, and evidence and shall have the right to question the~~

301 ~~accuser and all witnesses and to present any witnesses in his~~
302 ~~own behalf. The Board shall also have the right to question the~~
303 ~~accuser and all witnesses.~~

304 ~~(b) A Complaint Review Board, based upon its~~
305 ~~investigations and deliberations, shall determine by majority~~
306 ~~vote whether the complaint is:~~

307 ~~1. "Unfounded," if the complaint is conclusively proved to~~
308 ~~be unfounded.~~

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

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

313 ~~4. That the accused is "exonerated" if the acts which were~~
314 ~~the basis of the complaint occurred, but were justified, proper,~~
315 ~~and lawful.~~

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

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

326 ~~2. The Sheriff, after notification of a finding of~~
327 ~~"sustained," shall consult with the employee's chain of command~~
328 ~~to review the findings and recommendations of the Board, and the~~
329 ~~Sheriff may take such disciplinary action as he deems~~
330 ~~appropriate.~~

331 ~~3. The decision of the Sheriff with respect to the~~
332 ~~findings of a Board and resulting disciplinary action may be~~
333 ~~appealed to a Career Service Appeals Board pursuant to Section~~
334 ~~2. If such an appeal is taken, no findings or recommendations by~~
335 ~~the Complaint Review Board with respect to the case shall be~~
336 ~~considered by the Career Service Appeals Board in its~~
337 ~~proceedings.~~

338 ~~Section 5. All commissioned and noncommissioned persons in~~
339 ~~the employ of the Office of the Sheriff of Leon County on the~~
340 ~~effective date of this act who have served for a period of 1~~
341 ~~calendar year or more as of such date shall be permanent~~
342 ~~employees subject to the provisions of this act. All other~~
343 ~~employees shall become permanent employees subject to the~~
344 ~~provisions of this act upon reaching their 1 calendar year~~
345 ~~service anniversary date.~~

346 **Section 2.** The provisions of this act are severable and if
347 any provision is held unconstitutional, the decision of the
348 court regarding that provision shall not affect the validity of
349 the remaining provisions. It is hereby declared to be the intent
350 of the Legislature that the remaining provisions of the act

351 would have been adopted had such unconstitutional provisions not
352 been included herein.

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