

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SBs 1708 and 1626

SPONSOR: Committee on Criminal Justice and Senators Bronson and Burt

SUBJECT: Department of Corrections/Law Enforcement Officers

DATE: April 3, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gardner	Cannon	CJ	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The CS amends the statute describing the powers and duties of the Office of the Inspector General in the Department of Corrections (department). The Secretary of the department would be allowed to designate as law enforcement officers those prison inspectors who hold law enforcement certification from the Criminal Justice Standards and Training Commission. This would empower certified inspectors to arrest persons for law violations uncovered in criminal investigations related to department operations.

The provisions of this bill become effective upon becoming law.

This bill substantially amends the following section of the Florida Statutes: 944.31.

**II. Present Situation:**

According to the Inspector General for the Department of Corrections, there are 97 inspectors located throughout the state, supervised via five field offices. These inspectors are all certified as correctional officers and make about \$40,000 yearly. Their basic job assignment is to conduct criminal investigations as well as administrative or internal affairs investigations involving the conduct of both department staff and/or inmates. Of the 97 inspectors, 30 are already certified to be law enforcement officers pursuant to s. 943.1395, F.S. An additional 230 hours of law enforcement training are required for someone already certified as a correctional officer to also be certified as a law enforcement officer.

Currently, the department's inspectors conduct criminal investigations up to the point of arrest, pursuant to s. 944.31, F.S. When an inspector determines that there is probable cause to arrest, he or she may detain the suspect, but has to call the sheriff of the county wherein the prison is

located to come to the prison and make the arrest. In cases where there is evidence of sexual misconduct in prison or sexual abuse of an inmate, the inspector general must conduct an investigation, and, if probable cause is determined that a violation of s. 944.35, F.S., has occurred, the respective state attorney in the circuit in which the incident occurred must be notified.

There is an office of the Chief Inspector General in the executive branch described in s. 14.32, F.S. It is the duty of the Chief Inspector General to promote integrity and efficiency in agencies under the Governor's office. When in the course of investigating complaints of any kind, the inspector discovers evidence of criminal conduct, the inspector is to "Report expeditiously to and cooperate fully with the Department of Law Enforcement, the Department of Legal Affairs, and other law enforcement agencies." s. 14.32(g), F.S.

Virtually every state agency has an inspector general. Section 20.055, F.S., lays out the general responsibilities for agency inspector generals. These responsibilities include, but are not limited to, developing standards for evaluating the agency, reviewing actions of the agency, making recommendations for improvement, promoting efficiency, preventing fraud and conducting investigations. In carrying out the investigative duties, the inspector must receive any complaint related to the "Whistle-blower's Act" pursuant to ss. 112.3187-112.31895, F.S. The Whistle-blower's act requires the inspector to turn over to the Chief Inspector General and the Department of Law Enforcement any evidence of criminal activity. s. 112.3189(11), F.S.

The Inspector General and inspectors of the Department of Agriculture and Consumer Services are specifically empowered pursuant to s. 570.092, F.S., to be responsible for criminal and administrative investigation of matters relating to the department.

These sections of the Florida Statutes do not authorize inspectors to have law enforcement authority, such as arrest or warrant authority. There does not appear to be any state agency whose inspector general and inspectors are authorized to be certified as law enforcement officers.

### **III. Effect of Proposed Changes:**

The CS gives the Secretary of the Department of Corrections the authority to designate as law enforcement officers those inspectors in the Office of the Inspector General for the department who are already certified to be law enforcement officers pursuant to s. 943.1395, F.S. This amendment to s. 944.31, F.S., would allow those inspectors to enforce criminal law on property owned or leased by the department involving matters over which the department has jurisdiction. This bill would allow the inspector/law enforcement officer to make arrests of suspects of the investigations in the same manner and under the same circumstances as any other law enforcement officer within their jurisdiction. The 30 inspectors who are already certified could be immediately designated as law enforcement officers by the Secretary.

The language of this bill specifically limits the jurisdiction of inspectors also designated as law enforcement officers. The bill grants them the authority, "to enforce any criminal law or conduct any criminal investigation on property owned or leased by the department or involving matters over which the department has jurisdiction." The department has jurisdiction over "inmates, grounds, buildings, property, and all other matters pertaining to . . . programs for the

imprisonment correction, and rehabilitation of adult offenders.” s. 945.025, F.S. This gives the department jurisdiction over department employees as well. A law enforcement officer is defined in s. 943.10, F.S., as a full time officer, who can bear arms, make arrests, investigate crime and enforce the laws of the state. This includes the authority to apply for and execute warrants.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

All prison inspectors are currently classified as special risk state employees, thus there would not be an additional impact on benefits and retirement. The department estimates that about 90 inspectors would be cross-trained to become certified as law enforcement officers. This would cost approximately \$500.00 per officer, totaling \$45,000. This initial cost would not be so great in following years as inspectors are trained as they are hired.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.