

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 demotion or  
5       dismissal; authorizing the Sheriff to promote, demote,  
6       transfer, and determine disciplinary measures,  
7       including dismissal; providing for transition to new  
8       sheriff; providing beginning date of employees;  
9       revising procedures of Career Service Appeals Boards;  
10      requiring the Sheriff to be represented by the  
11      Sheriff's General Counsel or other specified  
12      representative; prohibiting certain evidence from  
13      inclusion; authorizing the chairperson to rule on the  
14      admissibility of evidence; exempting the actions of  
15      the board and the Sheriff from the provisions of the  
16      Administrative Procedures Act; deleting provisions  
17      relating to complaints against employees, complaint  
18      review boards, and employment status of commissioned  
19      and noncommissioned employees; providing severability;  
20      providing an effective date.

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

23  
24       **Section 1. Chapter 83-456, Laws of Florida, is amended to**  
25   **read:**

26       Section 1. ~~Employees of Leon County Sheriff's Office~~  
27 ~~Career Service Employees' Sheriff; applicability of Act;~~  
28 ~~permanent status of employees; administration.—~~

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

49       (2) PERMANENT STATUS; CAUSE FOR DEMOTION ~~SUSPENSION~~ OR  
50 DISMISSAL.—

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

67           (b) Any employee who has achieved permanent status is not  
68 exempt from the disciplinary provisions outlined in the Leon  
69 County Sheriff's Office general orders. It is not a demotion  
70 under this act or the Leon County Sheriff's Office policy to be  
71 reassigned from special duties or from one shift or zone  
72 assignment to another or to be transferred from one division to  
73 another for the betterment of the Leon County Sheriff's Office,  
74 even if a reduction in pay results ~~of the Sheriff may only be~~  
75 ~~suspended or dismissed for cause; provided that prior to such~~

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

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

98 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.—When a newly  
99 elected or appointed Sheriff assumes office, the new Sheriff  
100 shall continue the employment of all currently employed

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

126 ~~Major positions are and the Executive Secretary position shall~~  
127 ~~not be appealable under Section 2.~~

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

133 Section 2. Beginning date.—

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

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

153        Section 3. ~~Section 2.~~ Career Service Appeals Board ~~Boards~~;  
154 creation; membership; procedures ~~duties~~.—

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

165        (2) MEMBERSHIP OF BOARDS.—When needed upon the call of the  
166 Sheriff, or upon the filing of an appeal, an ad hoc Career  
167 Service Appeals Board shall be appointed. The membership of each  
168 such Board shall consist of five employees of the Office of the  
169 Sheriff. Two members shall be selected by the Sheriff, two  
170 members shall be selected by the employee filing the appeal, and  
171 the fifth member, who shall serve as chairperson ~~chairman~~ of the  
172 Board, shall be selected by the other four members. The ranking  
173 officer in charge of personnel shall serve as an ex officio  
174 member of the Board, but shall have no vote. Any employee shall  
175 have the right to decline to serve as a member of a Board, and

176 employees selected to serve on a Board shall serve without  
177 additional compensation or overtime compensation with respect to  
178 such service. Once selected to a board, the members thereof  
179 shall serve until final action is taken by the Board with  
180 respect to the purpose for which the Board was selected, at  
181 which time the Board shall be dissolved.

182 (3) PROCEDURE WITH RESPECT TO APPEALS.—

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

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

198 (c) During any hearing, the employee filing the appeal  
199 shall have the right to be heard publicly, to be represented by  
200 a person of his or her choice, and to present any evidential



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

226 presentation of proper vouchers and approval by three members of  
227 the Board.

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

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

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

243 ~~Section 3. Complaints against employees; procedure;~~  
244 ~~Complaint Review Board.—~~

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

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

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

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

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

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

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

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

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

288 ~~(f) If an employee who is subject to the provisions of s.~~  
289 ~~112.532, Florida Statutes, is dissatisfied with the decision of~~  
290 ~~the Sheriff regarding disciplinary action resulting from a~~  
291 ~~complaint, he may appeal the action to a Career Service Appeals~~  
292 ~~Board, or he may first request a Complaint Review Board under~~  
293 ~~the provisions of s. 112.532, Florida Statutes, as provided in~~  
294 ~~Section 4.~~

295 ~~Section 4. Complaint Review Boards; membership;~~  
296 ~~procedure.~~

297 ~~(1) BOARDS; MEMBERSHIP. If any employee who is subject to~~  
298 ~~the provisions of s. 112.532, Florida Statutes, requests a~~  
299 ~~Complaint Review Board as provided in Section 3, the Sheriff~~  
300 ~~shall so call. Such a board shall be composed of the following~~

301 ~~personnel, all of whom shall be law enforcement officers as~~  
302 ~~defined by the Criminal Justice Standards and Training~~  
303 ~~Commission, and who may be selected from any state, county, or~~  
304 ~~municipal agency within Leon County:~~

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

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

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

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

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

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

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

325 ~~1. "Unfounded," if the complaint is conclusively proved to~~

326 ~~be unfounded.~~

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

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

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

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

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

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

349       3. ~~The decision of the Sheriff with respect to the~~  
350 ~~findings of a Board and resulting disciplinary action may be~~

351 ~~appealed to a Career Service Appeals Board pursuant to Section~~  
352 ~~2. If such an appeal is taken, no findings or recommendations by~~  
353 ~~the Complaint Review Board with respect to the case shall be~~  
354 ~~considered by the Career Service Appeals Board in its~~  
355 ~~proceedings.~~

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

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

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