

## House Bill No. 815

An act relating to Osceola County; providing Career Service status for certain members of the Osceola County Sheriff's Office; providing for codification of chapter 89-516, Laws of Florida; specifying rights of members; providing promotional procedures and Career Service positions; providing for the appointment of a Career Service board to hear appeals and procedures with respect thereto; specifying a disciplinary policy and providing procedures of appeal and complaint handling; repealing chapter 89-516, Laws of Florida; providing an effective date.

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

Section 1. This act constitutes the codification of chapter 89-516, Laws of Florida, relating to the Osceola County Sheriff's Office. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act, including current legislative authority and any additional authority granted by this act.

Section 2. Chapter 89-516, Laws of Florida, is codified and repealed as provided by this act.

Section 3. The Osceola County Sheriff's Office Civil Service Act is recreated and reenacted to read:

Section 1. Members of the Osceola County Sheriff's Office; applicability of the act; career services of agency members; transition; administration.—

(1) Applicability.—The provisions of this act shall apply to all appointed deputy sheriffs and nonappointed members of the Osceola County Sheriff's Office. The provisions of this act shall not apply to the sheriff; nor to those above the rank of lieutenant; nor to special deputy sheriffs appointed pursuant to section 30.09(4), Florida Statutes, members of the sheriff's reserve, auxiliary, posse units, volunteers, task force members, and individuals appointed as part-time deputy sheriffs, as defined by the Criminal Justice Standards and Training Commission. As used in this act, the terms "member," "personnel," "employee," "employ," and "employment" shall refer to all persons, whether employed or appointed, to whom the act applies. It is not, however, the intent of this act to grant the right of collective bargaining to members of the Osceola County Sheriff's Office who do not otherwise have that right pursuant to law.

(2) Career Service positions.—

(a) The following Career Service positions are established and recognized:

1. Level 4 lieutenant.
2. Level 3 sergeant.

3. Level 2 deputy sheriff.

4. Level 1 nonappointed.

(b) Promotions above level 1 shall be made by content-valid examinations according to the agency's promotional system. All promotions to the rank of sergeant and lieutenant made after the effective date of this act must be as a result of said competitive examinations.

(3) Career Service status.—

(a) After a member of the Sheriff's Office, to whom the provisions of this act apply, has served for a period of one (1) calendar year, such member shall have attained Career Service status, unless the member is placed on extended probation for just cause.

(b) Effective upon this act becoming a law, all current nonprobationary members of the Sheriff's Office will be granted Career Service status at the rank which they currently hold, provided that said member currently holds a Career Service rank.

(c) If a member is separated but later rejoins the Sheriff's Office, said member shall be required to complete one (1) further calendar year of service before being granted the right of appeal provided in section 4.

(d) Any member who is required to serve a probationary period attendant to a promotion shall retain Career Service status with the Sheriff, but may be demoted to his/her prior rank during such probationary period without the right of appeal as provided in section 4.

(e) A member demoted to a Career Service rank from a non-Career Service rank shall complete a one (1) year probationary period in the Career Service rank before being eligible to protection offered with Career Services status.

(f) Promotions or demotions of members or creation of rank to circumvent the intent of this act shall be held as invalid and shall not affect the Career Service status of any member affected by such invalid action.

(4) Transition of Career Service members.—

(a) When a newly elected or appointed sheriff assumes office, the new sheriff shall continue the status of current Career Service personnel unless cause for dismissal or demotion exists.

(b) Cause shall be misfeasance, nonfeasance, or malfeasance of office.

(c) Said Career Service members shall retain their Career Service ranks up to and including the rank of lieutenant.

(5) Administration.—The sheriff has and shall continue to have the authority to adopt such rules, regulations, and procedures as are necessary for the implementation and administration of this act, including, but not limited to, appeal hearing proceedings. Nothing in this act shall be construed

as affecting the budgetmaking powers of the Board of County Commissioners of Osceola County.

Section 2. Complaints against members; standards of conduct; discipline; discipline appeals.—

(1) Standards of conduct and complaint procedure.—The sheriff shall establish general rules and standards of conduct for all personnel and a complaint receipt and processing procedure in order to adequately provide for the prompt receipt, investigation, and disposition of complaints against personnel of the Sheriff of Osceola County.

(2) Discipline procedure.—A discipline procedure shall be established which contains provisions for factual review of each disciplinary action by the sheriff's director of personnel, or other person so designated by the sheriff, and an opportunity for the accused to respond to the charges. A decision by the disciplining authority to impose a disciplinary action shall result in the completion of a Notice of Disciplinary Action form by the disciplining authority.

(3) Discipline appeal procedure.—

(a) An appeal of a Notice of Disciplinary Action must be made in accordance with the sheriff's disciplinary procedure and shall result in a hearing by a departmental Disciplinary Appeal Board as specified in said procedure. The sheriff shall appoint the chairperson and the board shall serve as specified in the discipline procedure.

(b) Following the hearing, the board shall report to the sheriff via the director of personnel, or other person so designated by the sheriff, specifying whether the appeal is with or without merit.

(c) The sheriff shall render a decision in writing that shall be final.

Section 3. Career Service Board; creation; membership duties.—

(1) Function of the board.—A Career Service Appeals Board shall be appointed herein for the purposes of hearing appeals of Career Service members arising from disciplinary actions brought under the sheriff's rules, procedures, or policies which result in dismissal, suspension, demotion, or reduction in pay, provided that oral or written reprimand, probation, and suspension from work for three (3) work days or less as a result of a single investigation shall not be appealable to the board.

(2) Membership of the Career Service Board.—The Career Service Board shall consist of five (5) members, none of whom shall have been involved in the original event which resulted in the disciplinary process that is the subject of the appeal, none of whom are related to the appellant, none of whom have been terminated from a law enforcement agency within Osceola County due to a disciplinary action, none of whom have any ongoing litigation against the Osceola Sheriff's Office, and none of whom are on probation or have received discipline within the last year. A method of selection and terms of office are as follows:

(a) The sheriff shall appoint two full-time law enforcement officers from an agency within Osceola County to serve on the board only with regard to the appellant's particular appeal.

(b) The appellant shall appoint two full-time law enforcement officers from an agency within Osceola County to serve on the board only with regard to the appellant's particular appeal.

(c) The four members of the board, having been selected as per paragraphs (a) and (b) shall between them select a full-time law enforcement officer employed at the Osceola County Sheriff's Office to serve as the fifth member and chairperson of the board. This chairperson/member shall serve only with regard to the appellant's particular appeal.

(d) In the event that either the sheriff or the appellant's appointees to the board do not qualify as per subsection (2), an alternate name shall be submitted to the career service administrator by the applicable party within three (3) working days of notification of the disqualification.

(e) The appeal board will be declared at an impasse by the administrator if the four members fail to agree on a fifth member/chairperson. After declaring an impasse, the administrator shall notify the sheriff or his/her designated representative and the appellant. To break the impasse, the administrator may utilize the following options:

1. The sheriff and/or appellant may choose to appoint new board members or retain the present appointees.

2. If neither party wishes to replace their appointees, or if new appointees still result in an impasse, the administrator shall contact a circuit or county judge and request the court appoint a fifth member to serve as a chairperson from a current roster of law enforcement officers employed on a full-time basis at the Osceola Sheriff's Office.

(f) All five members, as provided for above, shall constitute a quorum.

(g) Seated board members may not be replaced or substituted without advanced approval of the entire remaining board.

(h) The sheriff shall select a member of the Osceola County Sheriff's Office to serve as the administrator of the Career Service Board. This administrator shall have no voting right as to the actions of the board and shall serve only to assist the board in scheduling, recording, the calling of witnesses, and other such administrative duties and shall be responsible for advising the board of the board's responsibilities under the provisions of this act.

#### Section 4. Career Service Board appeal procedure.—

(1) Timeliness.—A Career Service appeal of the final decision of the sheriff on a disciplinary action as specified in section 2(3)(c) shall be made in writing to the administrator of the Career Service Board. The Career Service appeal must be received by the administrator no later than five (5) working

days after the disciplined individual is served with the sheriff's final decision. Said appeal shall include the names of the two members of the board selected by the appellant as provided in section 3(2)(b). The Career Service Board shall meet for purposes of hearing the appeal no later than thirty (30) working days after the receipt of an appeal by the administrator.

(2) Conduct of hearing.—

(a) During any Career Service hearing the member filing the appeal shall have the right to be heard publicly, to be represented by an individual of his/her choice, other than an elected or appointed official of Osceola County or an attorney licensed to practice law in the State of Florida, and to present any evidentiary facts in his/her behalf, however, said facts shall be restricted to those presented during the disciplinary procedure.

(b) During such hearings, the technical rules of evidence shall not apply.

(c) The board shall, in the conduct of such hearings, have the power to administer oaths, issue subpoenas, compel the attendance of witnesses, and require the production of books, records, accounts, papers, documents, and testimony.

(d) In the event of disobedience by any person to comply with an order of the board or a subpoena issued by the board, or upon refusal of a witness to testify on any matter regarding which he/she may be lawfully interrogated, a Circuit Judge of the Ninth Judicial Circuit, upon application of the chairperson of the board, shall compel obedience by proceeding as for contempt.

(e) Each witness who appears in obedience to a subpoena before the board shall receive compensation for attendance fees and mileage as provided witnesses in civil cases in the courts of this state unless the witness is a law enforcement officer appearing before the board during normal duty hours. Such payments shall be made by the party calling the witness; except that with respect to any witness called by the board, payments shall be made by the sheriff upon presentation of proper vouchers and approval of the chairperson and administrator.

(f) The board shall have the power to enact, adopt, and amend rules and regulations governing procedures before the board.

(3) Board responsibilities and findings.—

(a) The board shall, by majority vote, dispose of the appeal by making findings of fact and issuing a written decision to the sheriff and the appellant.

(b) Such decision shall either sustain or not sustain the action being appealed.

(c) If an action by the sheriff is not sustained by the board, the board shall offer such remedial action as is appropriate, which may include reinstatement with or without back pay and may modify any disciplinary action which was the subject of the appeal.

(d) No board shall have the authority to impose on any member any penalty which is more harsh than that which formed the basis of the appeal.

(e) The decision of the board shall be final and binding on the appellant and the sheriff.

Section 5. All persons to whom this act applies as specified in section 1 who have served for a period of one (1) calendar year or more as of the effective date of this act shall be Career Service members subject to the provisions of this act. All other members shall become Career Service members subject to the provisions of this act upon reaching their one (1) year service anniversary date.

Section 4. The provisions of this act shall be severable and, if any of the provisions shall be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions. It is hereby declared to be the intent of the Legislature that this act would have been adopted had such unconstitutional provision not been included therein.

Section 5. Chapter 89-516, Laws of Florida, is repealed.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor May 22, 2000.

Filed in Office Secretary of State May 22, 2000.