

House Bill No. 1441

An act relating to Hernando County; providing for application of the act to career-service members of the Hernando County Sheriff's Office; providing certain exceptions; defining the term "member" with respect to career-service personnel of the Hernando County Sheriff's Office; specifying the period of employment required to qualify for career-service membership; providing for implementation of the act; authorizing the Sheriff to adopt rules; creating the Career Service Appeals Board; providing for membership of the board; providing for the board to make nonbinding recommendations to the Sheriff with respect to the dismissal of a member; providing for compensation for witnesses appearing before the board; specifying rights and procedures for hearings before the board; providing that actions of the board and Sheriff are exempt from ch. 120, F.S.; providing immunity from civil liability for certain actions; exempting certain appeals from application of the act; providing for severability; providing an effective date.

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

Section 1. Members of Hernando County Sheriff's Office; applicability of the act; career-service status.—

(1) This act applies to members of the Hernando County Sheriff's Office, with the following exceptions:

(a) Members serving in full-time positions during the initial probationary period.

(b) Part-time members.

(c) Reserve and auxiliary deputy sheriffs.

(d) Special deputies.

(e) Members holding the position of Chief Deputy or Undersheriff.

(f) Members holding the position of Captain or above.

(2) This act does not apply to the dismissal of a member which arises from a layoff or from the partial or total abolition or cessation of a program, service, operation, department, or grant-funded position, at the discretion of the Sheriff.

(3) This act does not grant the right of collective bargaining to members of the Hernando County Sheriff's Office who do not otherwise have that right pursuant to law.

(4) As used in this act, the term "member" means all persons, whether employed by or appointed to the Hernando County Sheriff's Office, including

personnel certified under chapter 943, Florida Statutes, and noncertified personnel.

(5)(a) A member attains the status as a career-service member if the member serves for 1 calendar year and is not placed upon extended probation during that period. Any member who is placed on extended probation attains status as a career-service member upon successful completion of the extended probation.

(b) For the purpose of determining career-service status under this act, all time in the employment of the Hernando County Sheriff's Office while attending the police academy, or other comparable training, for certification as a sworn officer or deputy sheriff does not count toward the 1 calendar year of minimum service required for purposes of qualifying as a career-service member.

(c) Effective July 1, 2000, all nonprobationary members who hold the rank of lieutenant or below, through a competitive promotional process, shall be granted career-service status at such rank or level.

(d) Any member who is required to serve a probationary period attendant to a promotion shall retain his or her status as a career-service member of the Sheriff's Office, but may be demoted to his or her prior position during the probationary period.

(e) Any member who leaves the employment of the Sheriff's Office must, after rejoining the employment of the Sheriff's Office, complete 1 additional calendar year of service before being granted status as a career-service member.

(6) The Sheriff shall implement this act on July 1, 2000. Any career-service member of the Sheriff's Office who holds the rank of lieutenant or below, through a competitive promotional process, on July 1, 2000, shall retain his or her career-service rank, unless cause exists for demotion. Cause shall be misfeasance, nonfeasance, or malfeasance in office, or for any just cause for which certification of a law enforcement officer may be revoked under chapter 943, Florida Statutes.

Section 2. Administration.—The Hernando County Sheriff may adopt rules to administer this act. However, this act does not affect the authority of the Hernando County Board of County Commissioners to adopt a budget.

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

(1) An ad hoc Career Service Appeals Board is created for the purpose of hearing appeals of career-service members arising from disciplinary dismissal. The board may also provide assistance and advice to the Sheriff in matters concerning disciplinary dismissal and may take any other action authorized by the Sheriff.

(2) The Career Service Appeals Board shall be composed of:

(a) Two individuals selected by a majority vote of the career-service members of the Sheriff's Office.

(b) Two individuals selected by the Sheriff.

(c) One individual, selected by a majority of the other four members of the board, who shall serve as chairperson, unless otherwise determined by the board.

(3)(a) Each individual appointed to the board must be of good moral character and reputation within the community, be a citizen of the United States, and have been a permanent resident of Hernando County for at least 2 years.

(b) Board members shall be appointed to terms of 2 years each, except that of the initial appointments, one of the individuals appointed by the Sheriff and one of the individuals appointed by the career-service members shall be appointed to terms of 1 year.

(4) A board member may not be:

(a) A member of any national, state, or county committee of a political party.

(b) A candidate for or an incumbent of any elected public office.

(c) A member of the Hernando County Sheriff's Office.

(d) The spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, or nephew, by consanguinity or affinity, of a member of the Sheriff's Office.

(e) Positioned so as to have a conflict of interest with the duties and responsibilities of board membership.

(5) The Career Service Appeals Board shall make a nonbinding recommendation to the Sheriff as to whether a member's dismissal was for a violation of a policy, rule, procedure, or practice of the Sheriff's Office.

(a) The chairperson of the board may sign all notices, subpoenas, and recommendations on behalf of the board. A judge of the circuit court of Hernando County, on application of the Career Service Appeals Board, shall compel obedience by proceedings as for contempt upon failure of any person to comply with a subpoena or testify upon any matter on which he or she may be lawfully interrogated.

(b) Each witness who appears in obedience to a subpoena before the board shall receive the same compensation for attendance and mileage as is provided to witnesses in civil cases who appear before the courts of this state. Payment is the responsibility of the party calling the witness, except that with respect to any witness called by the board, payment shall be made by the Sheriff upon presentation of proper documentation.

(6)(a) Any person who files an appeal concerning his or her status as a career-service member of the Sheriff's Office has a right to a hearing before

the Career Service Appeals Board, may be represented by a person of his or her choice, may present relevant evidence and argument, and may cross-examine witnesses.

(b) The board shall, by a majority vote, dispose of the appeal by making a finding of fact and issuing its written recommendations, including any mitigating circumstances, to the Sheriff for his or her consideration. The Sheriff retains the right of final determination and a person may not be reinstated with or without back pay or benefits without the concurrence of the Sheriff.

(7) The actions of the Career Service Appeals Board and the Sheriff are exempt from chapter 120, Florida Statutes. The actions of the Sheriff are final and not subject to appeal.

(8) The Career Service Appeals Board, its members, the Sheriff, witnesses while giving truthful testimony, and all representatives of parties appearing before the board are immune from civil liability arising from actions taken pursuant to this section.

Section 4. Nonapplicability of act.—This act does not apply to any appeal by a deputy sheriff claiming dismissal due to lawful off-duty political activity or discriminatory reasons, which may be appealed under chapter 30, Florida Statutes.

Section 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 6. This act shall take effect July 1, 2000.

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.