

Committee Substitute for Senate Bill No. 408

An act relating to investigations by the office of inspector general of the Department of Corrections; amending s. 944.31, F.S.; providing for designation of certain persons as law enforcement officers and authorizing such persons to have certain powers and duties; amending s. 944.35, F.S.; revising provisions relating to use of force by department employees and responsibility and guidelines for investigations thereof; providing an effective date.

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

Section 1. Section 944.31, Florida Statutes, is amended to read:

944.31 Inspector general; inspectors; power and duties.—The inspector general shall be responsible for prison inspection and investigation, internal affairs investigations, and management reviews. The office of the inspector general shall be charged with the duty of inspecting the penal and correctional systems of the state. The office of the inspector general shall inspect each correctional institution or any place in which state prisoners are housed, worked, or kept within the state, with reference to its physical conditions, cleanliness, sanitation, safety, and comfort; the quality and supply of all bedding; the quality, quantity, and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution. The office of inspector general shall see that all the rules and regulations issued by the department are strictly observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general shall coordinate and supervise the work of inspectors throughout the state. The inspector general and inspectors may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation. The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections. The secretary may designate persons within the office of the inspector general as law enforcement officers to conduct any criminal investigation that occurs on property owned or leased by the department or involves matters over which the department has jurisdiction. A person designated as a law enforcement officer must be certified pursuant to s. 943.1395 and must have a minimum of 3 years' experience as an inspector in the inspector general's office or as a law enforcement officer. The department shall maintain a memorandum of understanding with the Department of Law Enforcement for the notification and investigation of mutually agreed-upon predicate events that shall include, but are not limited to, suspicious deaths and organized criminal activity. During ~~In~~ such investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation and persons designated as law enforcement officers under this section shall have the authority to arrest, with or without a warrant, detain any prisoner of or visitor to a state correctional institution person for a violation violations of

the criminal laws of the state involving an offense classified as a felony that occurs on property owned or leased by the department and may arrest offenders who have escaped or absconded from custody. Persons designated as law enforcement officers have the authority to arrest with or without a warrant a staff member of the department, including any contract employee, for a violation of the criminal laws of the state involving an offense classified as a felony under this chapter or chapter 893 on property owned or leased by the department. A person designated as a law enforcement officer under this section may make arrests of persons against whom arrest warrants have been issued, including arrests of offenders who have escaped or absconded from custody. Such detention shall be made only on properties owned or leased by the department, and The arrested detained person shall be surrendered without delay to the sheriff of the county in which the arrest detention is made, with a formal complaint subsequently made against her or him in accordance with law.

Section 2. Subsection (2) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(1)(a) An employee of the department is authorized to apply physical force upon an inmate only when and to the extent that it reasonably appears necessary:

1. To defend himself or herself or another against such other imminent use of unlawful force;
2. To prevent a person from escaping from a state correctional institution when the officer reasonably believes that person is lawfully detained in such institution;
3. To prevent damage to property;
4. To quell a disturbance;
5. To overcome physical resistance to a lawful command; or
6. To administer medical treatment only by or under the supervision of a physician or his or her designee and only:
 - a. When treatment is necessary to protect the health of other persons, as in the case of contagious or venereal diseases; or
 - b. When treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death.

As part of the correctional officer training program, the Criminal Justice Standards and Training Commission shall develop a course specifically designed to explain the parameters of this subsection and to teach the proper methods and techniques in applying authorized physical force upon an inmate.

(b) Following any use of force, a qualified health care provider shall examine any person physically involved to determine the extent of injury, if any, and shall prepare a report which shall include, but not be limited to, a statement of whether further examination by a physician is necessary. Any noticeable physical injury shall be examined by a physician, and the physician shall prepare a report documenting the extent and probable cause of the injury and the treatment prescribed. Such report shall be completed within 5 working days of the incident and shall be submitted to the warden for appropriate investigation.

(2) Each employee of the department who either applies physical force or was responsible for making the decision to apply physical force upon an inmate or an offender supervised by the department in the community pursuant to this subsection shall prepare, date, and sign an independent report within 15 working day days of the incident. The report shall be delivered to the warden or the circuit regional administrator, who shall forward the report with all appropriate documentation to the office of the inspector general. The inspector general shall conduct a review and make recommendations regarding the appropriateness or inappropriateness of the use of force. If the inspector general finds that the use of force was appropriate, the employee's report, together with the inspector general's written determination of the appropriateness of the force used and the reasons therefor, shall be forwarded to the circuit administrator or warden upon completion of the review. If the inspector general finds that the use of force was inappropriate, the inspector general shall conduct a complete investigation into the incident and forward the findings of fact to the appropriate regional director for further action have an investigation made and shall approve or disapprove the force used. The employee's report, together with the warden's or regional administrator's written approval or disapproval of the force used and the reasons therefor, shall be forwarded within 5 working days of the date of the completion of the investigation to the regional director. The regional director shall, in writing, concur in the warden's or regional administrator's evaluation or disapprove it. Copies of the employee's report, the warden's or regional administrator's evaluation, and the inspector general's regional director's review shall be kept in the files of the inmate or the offender supervised by the department in the community. A notation of each incident involving use of force and the outcome based on the inspector general's evaluation warden's or regional director's evaluation and the regional administrator's review shall be kept in the employee's file.

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

Approved by the Governor April 23, 2002.

Filed in Office Secretary of State April 23, 2002.