

House Bill No. 629

An act relating to Citrus County; specifying rights of certain employees and appointees of the Citrus County Sheriff; providing definitions; providing proceedings and provisions with respect to dismissal; providing for transition between administrations; providing for career appeals boards; providing for appeals procedures; providing an effective date.

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

Section 1. Employees and appointees of Citrus County Sheriff; applicability of act; career status and administration.—

(1) APPLICABILITY.—

(a) The provisions of this act shall apply to all certified and noncertified persons appointed or employed by the Citrus County Sheriff, with the following exceptions:

1. Commanders or, in the event of a title change, the highest ranked certified law enforcement officer or officers reporting directly to the sheriff.

2. Special deputy sheriffs appointed under section 30.09(4), Florida Statutes.

3. Members of a sheriff's posse or reserve unit.

4. Part-time appointees and employees, whether salaried or hourly paid, who are scheduled to work less than 24 hours per week.

5. Independent contractors, temporary employees, or contract employees.

6. Appointees and employees employed pursuant to a grant, the continued existence or funding of which is subject to the expiration or withdrawal of the grant provider.

7. For the purpose of the act, "appointee" and "employee" are synonymous, and any derivative of "employ" refers to the persons to whom this act applies.

(b) This act does not apply to an otherwise covered person who claims that a dismissal was for lawful off-duty political activity or for discriminatory reasons.

(c) This act does not change the independence of the sheriff as set forth in section 30.53, Florida Statutes, which reserves the final authority and responsibility of dismissing employees and appointees solely to the sheriff's discretion.

(d) This act does not grant the right of collective bargaining to the sheriff's employees who do not otherwise have that right pursuant to law.

(e) This act does not cover the nondisciplinary dismissal of employees or appointees. Such nondisciplinary dismissals include those arising from a reduction in force, layoff, and partial or total abolition or cessation of a program, service, operation, department, subdivision, or grant-funded position, at the discretion of the sheriff.

(2) DEFINITIONS.—As used in this act:

(a) "Appointee" means a person selected by the sheriff to serve in the position of deputy sheriff or correctional officer who is a certified officer within the meaning of chapter 943, Florida Statutes.

(b) "Employee" means any person employed by the sheriff for a position which does not require certification under chapter 943, Florida Statutes.

(c) "Dismissal" means the discharge or withdrawal of appointment by the sheriff or his or her designee of a person employed or appointed to a position with the Office of the Sheriff.

(d) "Initial probationary period" means 1 year of conditional employment or appointment commencing on the initial date of actual work and continuing for 12 months in a regularly established position. This probationary period may be extended at the discretion of the sheriff for a period equal to any work time taken off during the 12-month period. The initial 12-month probationary period may also be extended at the discretion of the sheriff for an additional 6 months.

(e) "Career appeals board" means an ad hoc board authorized under this act to hear disciplinary dismissal appeals.

(f) "Reemployment" means the reappointment or reemployment of a person who was previously an appointee or employee of the Office of the Sheriff.

(3) CAREER STATUS.—

(a) After an employee or appointee of the sheriff to whom the provisions of this act apply has completed the initial or extended probationary period, the person shall have attained career status in the Office of the Sheriff. If the person is reemployed at a later date, he or she shall be required to again complete the probationary period before being granted the right of appeal provided in section 2.

(b) The sheriff may at any time dismiss an appointee or employee who has not completed the initial or extended probationary period without granting the right of appeal provided in section 2.

(c) Any person who has attained career status must be provided with written notice of the reason or reasons for the proposed dismissal. If, however, the sheriff perceives a significant hazard in keeping the employee on the job, or when delay could result in damage or injury, the employee may

be immediately dismissed without notice and reasons; however, the employee must be provided with such notice and reasons within 2 calendar days after the date of dismissal, except when circumstances surrounding the situation make notice within 2 days impracticable.

(d) An employee or appointee who has achieved career status is entitled to appeal a disciplinary dismissal to a career appeals board.

(4) TRANSITION.—When a newly elected or appointed sheriff assumes office, all career status appointees and employees shall remain employees of the new administration, including bureau, division, and judicial services commanders as defined in subparagraph (1)(a)1. In addition to the commanders, those persons entitled to the rights of this provision are those who have achieved career service status and who, when the new sheriff assumes office, hold the rank of captain or lieutenant or the positions of civilian division director, public information officer, or sheriff's secretary.

(a) The new sheriff may reduce a commander, captain, or judicial services commander only one rank below the rank held on the day before the new sheriff assumes office.

(b) The new sheriff may reassign the civilian directors, public information officers, and sheriff's secretary to the next highest position classification within the pay and classification system.

(c) The reductions in rank and reassignments provided for in paragraphs (a) and (b) shall remain in effect for no more than 6 months, and thereafter the respective positions or assignments shall be at the sheriff's discretion.

(d) The salary of a displaced officer or person shall not be reduced below the maximum of the new pay grade which is applicable to the officer's or person's new position as set forth in the existing pay and classification guide or 6 percent of the person's former rate of pay or salary, whichever is less.

(e) The commanders, directors, and other employees and appointees set forth in paragraphs (a) and (b) shall retain career service appeal rights applicable to their reduced rank or reassigned position as set forth in this section.

(5) ADMINISTRATION.—The sheriff shall have the authority to adopt such rules and regulations as are necessary for the implementation and administration of this act; however, nothing in this act shall be construed as affecting the budget-making powers of the Board of County Commissioners of Citrus County.

## Section 2. Career appeals boards; creation; membership; duties.—

(1) FUNCTION OF BOARDS.—Ad hoc career appeals boards shall be appointed for the purpose of hearing appeals of employees having career status arising from their disciplinary dismissal. Any such board may also provide assistance and advice to the sheriff in matters concerning disciplinary dismissal and may take any other actions authorized by the sheriff.

(a) A career appeals board shall be utilized to make a nonbinding recommendation to the sheriff as to whether the dismissal was for a violation of sheriff's office policy, rule, regulation, procedure, or practice.

(b) An employee or appointee who is dismissed is not granted the right of appeal if said person is charged with a felony, misdemeanor, or major traffic infraction and enters a plea of guilty or of nolo contendere, is adjudicated guilty, or adjudication of guilt is withheld and the accused is placed on probation or a pretrial intervention plan.

(2) MEMBERSHIP OF BOARD.—Upon the call of the sheriff, or upon the filing of an appeal, an ad hoc career appeals board shall be appointed. The membership of each board shall consist of five appointees or employees of the Office of the Sheriff. Two members shall be selected by the employee or appointee filing the appeal, two members shall be selected by the sheriff, and the fifth member, who shall serve as the chair, shall be selected by the other four members. If these four members are unable to agree upon the fifth member within 15 days after the filing of the appeal and after exercising due diligence, they shall request the circuit court to appoint the fifth member, who shall serve as chair. Any employee may decline to serve as a member of the board.

(a) The chair shall have the authority to decide all motions or preliminary matters which are raised prior to the opening of the appeals hearing. Any such decision may be renewed before the board.

(b) The hearing shall be conducted during the sheriff's administrative office hours; therefore, employees selected to serve on the board shall serve without additional compensation. Once selected, the members of a board shall serve until the board issues its recommendations to the sheriff and, unless reconvened, the board shall be dissolved.

(c) The director in charge of personnel matters or the director's designee shall serve as an ex officio member of the board for the purpose of providing procedural guidance to the board concerning the application of this act and any rules or regulations of this act and any rules or regulations adopted by the sheriff relating thereto, but such ex officio member shall not have a vote.

(3) PROCEDURE WITH RESPECT TO APPEALS.—An employee or appointee who has achieved career status may submit a written request for a hearing to the sheriff or the sheriff's designee within 7 calendar days after receiving a notice of dismissal which shall be hand delivered or sent certified mail, return receipt requested. The appeal must contain a brief statement of the matters to be considered by the career appeals board and the names of the employees selected to serve on the board.

(a) A career appeals board shall be selected and shall meet for the purpose of hearing the appeal within 30 calendar days after receipt of the notice of appeal. However, an extension of time may be granted by the chair for good cause or upon agreement of the parties.

(b) The person filing the appeal has the right to a public hearing, to be represented by a person of his or her choice, to present relevant evidence and argument, and to cross-examine witnesses.

(c) The rules of evidence and civil procedure are not applicable to hearings conducted under this act.

(d) The board in conducting such hearings shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses, and require the production of documents. In case of the failure of any person to comply with the order of the board or a subpoena issued by the board, or upon the refusal of the witness to testify on any matter regarding which he or she may be lawfully interrogated, a county judge of the county in which the person resides, upon application of the board, shall compel obedience by proceeding as if it were contempt. Each witness who appears before the board in obedience to a subpoena shall receive compensation for attendance fees and mileage as provided for witnesses in civil cases in the courts of this state. Such payment shall be made by 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 vouchers.

(e) The board shall, by majority vote, dispose of the appeal for which it was appointed by making a finding of fact and issuing its written recommendations, including mitigating circumstances, to the sheriff for consideration. The sheriff shall retain the right of final determination, and no person may be reinstated, with or without back pay or benefits, without the concurrence of the sheriff.

(f) The board shall confine its deliberations to the evidence presented at the hearing, and such deliberations are exempt from the public meeting requirements of chapter 286, Florida Statutes.

(g) The actions of the board and the sheriff shall be exempt from the provisions of chapter 120, Florida Statutes. The actions of the sheriff are executory and are not subject to certiorari appeal.

(h) The provisions of this act shall be severable, and if any provision shall be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions.

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

Approved by the Governor May 25, 2001.

Filed in Office Secretary of State May 25, 2001.