

CHAPTER 387

SHERIFF

Sec.
 387.01 Bond; oath
 387.02 Failure to qualify
 387.03 Powers, duties
 387.04 Duties
 387.05 Shall give certificate, when
 387.06 Failure to pay over money
 387.07 Neglect of duty
 387.08 Criminal process, when filed
 387.09 May not buy at sheriff's sale
 387.10 Powers after expiration of term
 387.11 County jail
 387.12 May convey prisoners
 387.13 Prohibitions
 387.14 Deputies
 387.15 Women may be appointed deputy sheriffs
 387.16 Charge of petit juries
 387.17 Compensation of deputies
 387.18 Salaries in lieu of fees
 387.19 Division of counties in classes
 387.20 Salaries; appeals
 387.21 Salary increases
 387.211 Uniform and equipment allowance
 387.212 Contingent fund
 387.22 Jailer deputies, compensation fixed by district court

Sec.
 387.23 Deputies and certain others; compensation in special cases
 387.24 Payment of deputy sheriff
 387.25 Settlements with county board
 387.26 Deputies attending court
 387.27 Jailers, compensation
 387.29 Motor vehicle
 387.31 County civil service personnel system
 387.32 Resolution to establish system
 387.33 Sheriff's civil service commission
 387.34 Compensation of commissioners
 387.35 Duties of commissioners
 387.36 Rules, promulgation
 387.37 Removal only upon charges
 387.38 Grades, standards
 387.39 Examinations
 387.40 Charges, hearing
 387.41 Removal after hearing
 387.42 Employees under civil service commission jurisdiction
 387.43 Discontinuance of civil service commission
 387.44 Application
 387.45 Veterans preference law not affected

387.01 BOND; OATH. Every person elected or appointed to the office of sheriff, before entering upon his duties, shall give bond to the state in a sum not less than \$25,000 in counties whose population exceeds 150,000, and not less than \$5,000 in all other counties, to be approved by the county board, conditioned that he will well and faithfully in all things perform and execute the duties of his office, without fraud, deceit, or oppression, which bond, with his oath of office, shall be filed for record with the register of deeds.

[R. L. s. 547] (905)

387.02 FAILURE TO QUALIFY. If any person elected to the office of sheriff fails to give the bond and take the oath prescribed by law on or before January tenth next succeeding his election, it shall be deemed a refusal to serve.

[R. L. s. 548] (906)

387.03 POWERS, DUTIES. The sheriff shall keep and preserve the peace of his county, for which purpose he may call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority and to him delivered, attend upon the terms of the district court, and perform all of the duties pertaining to his office, including searching and dragging for drowned bodies and searching and looking for lost persons and when authorized by the board of county commissioners of his county he may purchase boats and other equipment including the hiring of airplanes for such purposes.

[R L s 549; 1943 c 330 s 1; 1951 c 302 s 1] (907)

387.04 DUTIES. In each county of the state having or which may hereafter have a population of 300,000, the sheriff shall perform all the duties and services now or which may hereafter be required by law to be performed by him and in addition shall serve all papers, post all notices named by law to be served or posted in behalf of the state or of the county for which he is elected, including all papers to be served or notices to be posted by the board of county commissioners, the county auditor, or by any other county officer.

[1913 c. 440 s. 2] (907-1)

387.045 [Local]

387.05 SHALL GIVE CERTIFICATE, WHEN. Every sheriff, if required, shall give without charge to any person delivering process or papers to him for service or execution a certificate under his hand specifying therein the names of the parties, the nature of the process or paper, and the day of such delivery.

[R. L. s. 550] (908)

387.06 FAILURE TO PAY OVER MONEY. If any sheriff or deputy shall fail

to settle with and pay over to the county board, according to law, any money collected or received by him for the use of, or belonging to, the county or shall fail to settle with and pay over to the person entitled thereto any money he may have collected or received by virtue of any execution, process, judgment, order, or decree, or in any other way by virtue of his office, such board or person may proceed against such sheriff or deputy in a summary manner before the district court, by an order to show cause why he should not pay over such money; and, upon the hearing thereof, the court may order such sheriff or deputy to pay to such board or person the amount found due, with 20 percent thereon as damages for such failure, together with the costs of the proceedings; and, upon failure to comply with such order, such sheriff or deputy may be committed to jail as for a contempt.

[R. L. s. 551] (909)

387.07 NEGLECT OF DUTY. If any sheriff shall neglect to make due return of any writ or other process or paper delivered to him to be executed or be guilty of any misconduct in relation to the execution thereof, he may be proceeded against by the party interested in the manner provided in section 387.06, and, in addition to requiring the performance of the duty neglected, or the correction of the injury done, the court may impose upon such sheriff a fine, for the use of the county, not exceeding \$200; but nothing herein shall prevent the person injured from maintaining an action for damages against the sheriff or upon his official bond.

[R. L. s. 552] (910)

387.08 CRIMINAL PROCESS, WHEN FILED. On or before the last day of the term for which the same was issued, every sheriff or other officer or person who serves a subpoena or other process issued by the court in a criminal action shall file the same, with a statement of his fees endorsed thereon, with the clerk of such court.

[R. L. s. 553] (911)

387.09 MAY NOT BUY AT SHERIFF'S SALE. No sheriff shall become the purchaser either directly or indirectly of any property, real or personal, by him exposed to sale by virtue of any mortgage, judgment, execution, or other process; and all such purchases made by any sheriff, or any other person for him, shall be void.

[R. L. s. 554] (912)

387.10 POWERS AFTER EXPIRATION OF TERM. Every sheriff going out of office by expiration of his term may execute and return all writs, processes, and orders which shall then be in his hands, and which he shall have begun to execute by service, levy, or collection of money thereon. If such sheriff dies, or from any cause is unable to act, the sheriff in office, upon the delivery to him of any such writ, process, or order, together with the return or memorandum of the action, if any, of such late sheriff under the same, shall complete the execution thereof in the same manner and with like effect as if the same had been originally delivered to him and the return of such succeeding sheriff upon any such process or order or his deed given in pursuance of the execution thereof shall be prima facie evidence of the disability of the late sheriff to complete the execution of such process or give such deed.

[R. L. s. 555] (913)

387.11 COUNTY JAIL. The sheriff shall have the charge and custody of the county jail and receive and safely keep therein all persons lawfully committed thereto and not release any person therefrom unless discharged by due course of law.

[R. L. s. 556] (914)

387.12 MAY CONVEY PRISONERS. The sheriff or other officer who legally arrests a person in any county may pass through any other county by him deemed necessary to convey such person to the place commanded by the process under which the arrest was made.

[R. L. s. 557] (915)

NOTE: See section 631.412.

387.13 PROHIBITIONS. No sheriff, deputy sheriff, or coroner shall appear or practice as an attorney, solicitor, or counselor in any court, or draw or fill up any process, pleading, or paper for any party in any action or proceeding, nor, with intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; nor

shall any sheriff or deputy sheriff be eligible to any other lucrative civil office, except village or city marshal. Either of such officers, for a violation of any of the provisions of this section, shall forfeit not to exceed \$50, to be recovered by the county in a civil action.

[R. L. s. 558] (916)

387.14 DEPUTIES. Every sheriff shall appoint under his hand a sufficient number of persons as deputy sheriffs, for whose acts he shall be responsible and whom he may remove at pleasure. Before entering upon his official duties, the oath and appointment of each shall be filed with the register of deeds.

[R. L. s. 559] (917)

387.15 WOMEN MAY BE APPOINTED DEPUTY SHERIFFS. The presiding judge of any district court at any time before the return of a verdict by a petit jury composed of both men and women, serving upon a case pending therein, by order issued to the sheriff and entered upon the minutes of the court, may direct the sheriff to appoint a female legal voter of the county as special deputy sheriff or bailiff to serve until the discharge of such jury from further service upon the pending case. The appointment shall forthwith be made and entered upon the minutes of the court and before entering upon the performance of her duties, the person so appointed shall take and subscribe the oath by law required of deputy sheriffs and file the same with the clerk.

[1921 c. 369 s. 1] (918)

387.16 CHARGE OF PETIT JURIES. Upon taking the oath by law required by officers in charge of petit juries the person so appointed may be directed by the court to have charge of such jury conjointly with the male deputy sheriff or bailiff performing such duty. Female special deputy sheriffs and bailiffs so appointed shall in all things perform the duties and be subject to the penalties by law prescribed for other officers having charge of petit juries.

[1921 c. 369 s. 2] (919)

387.17 COMPENSATION OF DEPUTIES. Each such deputy shall receive as compensation such compensation as the judge may determine but not to exceed \$10 per day while in attendance upon the court in charge of such jury.

[1921 c 369 s 3; 1959 c 619 s 1; 1963 c 719 s 1] (920)

387.18 SALARIES IN LIEU OF FEES. Counties having less than 75,000 inhabitants according to the then next preceding state or federal census shall pay to their sheriffs an annual salary and their expenses for official services rendered by them for their respective counties in lieu of fees as heretofore provided, excepting in counties having an area of more than 2,500 square miles and a population of more than 15,000 and less than 19,000.

[1917 c. 312 s. 1; 1933 c. 24 s. 1] (920-1)

387.19 DIVISION OF COUNTIES IN CLASSES. Counties having an area of less than 2,300 square miles shall be divided into classes according to their population as follows: Counties having less than 10,000 inhabitants shall constitute class A; counties having 10,000, but less than 15,000, shall be class B; counties having 15,000, but less than 20,000, shall be class C; counties having 20,000, but less than 25,000, shall be class D; counties having 25,000, but less than 30,000, shall be class E; counties having 30,000, but less than 35,000, shall be class F; counties having an area of more than 2,300 square miles and a population less than 40,000 and counties having 35,000, but less than 40,000, shall be class G; counties having a population of 40,000, but less than 45,000, shall be class H; counties having a population of 45,000, but less than 50,000, shall be class I; and counties having a population of 50,000, but less than 75,000, shall be class K.

[1917 c. 312 s. 2; 1933 c. 24 s. 2] (920-2)

387.20 SALARIES; APPEALS. Subdivision 1. The sheriffs of all counties of the state with less than 75,000 inhabitants according to the 1960 federal census shall receive yearly salaries for all services rendered by them for their respective counties, not less than the following amounts according to the then last preceding federal census:

- (a) In counties with less than 10,000 inhabitants, \$6,000;
- (b) In counties with 10,000 but less than 20,000 inhabitants, \$6,500;
- (c) In counties with 20,000 but less than 30,000 inhabitants, \$7,000;
- (d) In counties with 30,000 but less than 40,000 inhabitants, \$7,500;
- (e) In counties with 40,000 or more inhabitants, \$8,000.

In addition to such salary each sheriff shall be reimbursed for all expenses incurred by him in the performance of his official duties for his county and his claim for such expenses shall be prepared, allowed, and paid in the same manner as other claims against counties are prepared, allowed, and paid except that the expenses incurred by such sheriffs in the performance of service required of them in connection with insane persons either by a probate court or by law and a per diem for deputies and assistants necessarily required under such performance of such services shall be allowed and paid as provided by the law regulating the apprehension, examination, and commitment of insane persons; provided that any sheriff or deputy receiving an annual salary shall pay over any per diem received by him to the county in the manner and at the time prescribed by the county board, but not less often than once each month.

All claims for livery hire shall state the purpose for which such livery was used and have attached thereto a receipt for the amount paid for such livery signed by the person of whom it was hired and if the sheriff uses his own team or automobile he shall be allowed therefor the same amount which would be charged reasonably by any other person for the use of such team or automobile under the same circumstances.

Subd. 2. The county board of each of the counties specified in this section annually shall set by resolution the salary of the county sheriff which shall be paid to the county sheriff at such intervals as the board shall determine, but not less often than once each month. At the January meeting prior to the first date on which applicants may file for the office of county sheriff the board shall set by resolution the minimum salary to be paid the county sheriff for the term next following. In the event a vacancy occurs in the office of county sheriff, the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year. The board in any case specified in this subdivision may not set the annual salary at an amount less than the minimum provided in this subdivision, but it may set the salary in excess of such minimums. The salary of the county sheriff shall not be reduced during the term for which he was elected or appointed.

Subd. 3. The salary of the county sheriff when set pursuant to the provisions of subdivisions 1 and 2 shall constitute a base salary and the county sheriff shall be subject to any cost of living adjustment hereafter made pursuant to the provisions of Minnesota Statutes, Section 375.43, and acts amendatory thereof or supplemental thereto.

Subd. 4. This section shall not be construed as repealing any existing law which provides for a higher minimum salary in any county than the amount provided in subdivision 1, but shall be deemed to supersede the provisions of any act setting a maximum salary for the county sheriff in any of the counties specified in subdivision 1.

Subd. 5. The county sheriff shall charge and collect all fees and per diems prescribed by law and all such fees and per diems shall be paid to the county in the manner and at the times prescribed by the county board, but not less often than once each month. The sheriff shall not retain any additional compensation or other emolument for his services in any activity of county government. For purposes of this subdivision, (1) the expenses of the sheriff incurred by him in the performance of his official duties for his county, (2) uniform allowances, (3) mileage and travel allowances, except as the board shall have furnished motor vehicles pursuant to Minnesota Statutes 1961, Section 387.29, (4) living quarters provided by the county, and (5) payments for boarding prisoners, shall not be deemed an emolument of the office.

In lieu of payments made to the sheriff pursuant to Minnesota Statutes 1961, Sections 641.02, 641.03, 641.11 or 641.13 the county board, at its option may provide for board, laundry and other services for prisoners in the county jail and thereafter the sheriff shall not receive any additional compensation for providing board, laundry or other services for prisoners as provided in Minnesota Statutes 1961, Sections 641.02, 641.03, 641.11 or 641.13.

Subd. 6. The county board by resolution shall provide the budget for (1) the salaries of deputies, jailers, matrons, bailiffs, clerks and other employees in the office of the sheriff; (2) other expenses necessary in the performance of the duties of said office and (3) the payment of premiums of any bonds or license fees required of any deputy or other employee in said office and the board is authorized to appropriate funds therefor and for the salary of the sheriff. Nothing in this sub-

division shall limit the right of the sheriff to appoint deputies or other employees for said office as provided by law.

Subd. 7. The sheriff, if dissatisfied with the action of the county board in setting the amount of his salary or the amount of the budget for the office of sheriff, may appeal to the district court on the grounds that the determination of the county board in setting such salary or budget was arbitrary, capricious, oppressive or in unreasonable disregard for the responsibilities and duties of said office. The appeal shall be taken within 15 days after the date of the resolution setting such salary or budget by serving a notice of appeal on the county auditor and filing same with the clerk of the district court. The court either in term or vacation and upon 10 days notice to the chairman of the board shall hear such appeal. On the hearing of the appeal the court shall review the decision or resolution of the board in like manner as though reviewed by certiorari, except new or additional evidence may be taken. The court may order the officer appealing and the board to submit briefs or other memoranda and may dispose of the appeal on such writings. If the court shall find that the board acted in an arbitrary, capricious, oppressive or unreasonable manner it shall remand the matter to the county board for further action consistent with the court's findings.

Subd. 8. The provisions of subdivisions 1 to 7 shall take effect in the respective counties specified in subdivisions 1 to 7 as follows: (1) Upon the expiration of the term of the incumbent holding the office on July 1, 1965, or (2) upon the occurrence prior thereto of a vacancy in the office of county sheriff, or (3) subsequent to July 1, 1965, and upon not less than 30 days written notice by the sheriff, the county board shall make the provisions of subdivisions 1 to 7 effective on the first day of the month following the expiration of the notice period.

[1917 c 312 s 1; 1957 c 492 s 1; 1965 c 840 s 1, 2]

NOTE: Laws 1965, Chapter 840, Section 3 reads as follows:

"All laws relating to the salary, fees, and deputies and clerk hire for the county sheriff inconsistent herewith are superseded."

387.21 SALARY INCREASES. If any sheriff desires a higher salary than minimum salary, he shall make a showing to the county board of his county that such salary is inadequate as compensation for the services likely to be performed by such sheriff during the coming year, at any regular or special meeting of such county board, the county board may fix the amount of such salary in any just and reasonable sum. Such sum shall remain as the salary of such sheriff throughout his term, unless raised by further order of the board at a subsequent general or special meeting or on appeal.

Such sheriff, or citizens, may appeal from the fixing of the salary in the same way in which appeals may be taken from the allowance or disallowance by the county board, of claims presented to it for allowances as against the county. The appeal may be heard by the district court either in term or during vacation or at chambers upon eight days' notice of such hearing given to the county auditor; and the court, upon hearing such appeal, shall summarily determine the amount of salary to be paid any such sheriff during the remainder of his term of office unless the same be thereafter increased by the county board, as hereinbefore provided, and the order of the court fixing the salary shall be served by copy upon the county auditor forthwith.

[1917 c. 312 s. 4; 1933 c. 24 s. 3] (920-4)

387.211 UNIFORM AND EQUIPMENT ALLOWANCE. An allowance for the purchase and maintenance of uniforms and equipment for sheriffs and full time deputy sheriffs may be allowed in each county in such amounts and at such times as the board of county commissioners may set.

[1959 c 414 s 1]

387.212 CONTINGENT FUND. The board of county commissioners in any county may create a sheriff's contingent fund and may credit thereto not more than \$1,000. The moneys in such fund may be used for the advancement and reimbursement of expenses of the sheriff and his office. Such moneys shall be disbursed by the county treasurer in accordance with rules and regulations prescribed by the board.

[1967 c 197 s 1]

387.22 JAILER DEPUTIES, COMPENSATION FIXED BY DISTRICT COURT. The provisions of sections 387.18 to 387.21 for the salaries of sheriffs shall not include the salaries or fees of jailers, matrons, deputies whose attendance is required at

terms of court, the board of prisoners, nor the payment of any of the expenses specifically provided for in sections 387.18 to 387.23.

When there is any riot or impending violation of law and the sheriff shall be of opinion that other than the regular deputies are required he shall apply to the judge of the district court to determine upon and fix the compensation of such special deputies as the sheriff may name and appoint and such special deputies so named and appointed and the compensation of whom is fixed by the judge shall have all the powers assigned to him by the sheriff in such appointment. The appointment by the sheriffs and the fixing of their compensation shall be immediately certified by the sheriff to the clerk of the district court of his county and such certificate filed by such clerk and such special deputies shall be paid in the same manner as deputies in attendance upon terms of court.

[1917 c. 312 s. 5] (920-5)

387.23 DEPUTIES AND CERTAIN OTHERS; COMPENSATION IN SPECIAL CASES. Deputy sheriffs on special and limited assignments, sheriffs aids in criminal matters, bailiffs, guards, attendants for mentally ill, mentally deficient, epileptic, senile, and inebriate persons, shall be paid not to exceed \$10 per day for each day of service rendered or fraction thereof.

[1917 c 312 s 6; 1953 c 366 s 1; 1959 c 630 s 1] (920-6)

387.24 PAYMENT OF DEPUTY SHERIFF. Every sheriff of a county included in the counties classified in section 387.19 shall appoint a sufficient number of persons as deputy sheriffs in the manner provided by law, he may also appoint a deputy or deputies who shall have a salary if, upon the application to the judge of the district court, such judge deems such appointment necessary. If he so determines, he shall fix the salary of such deputy or deputies and such salary or salaries shall be payable as are other salaries provided for in sections 387.18 to 387.23.

[1917 c. 312 s. 7] (920-7)

387.25 SETTLEMENTS WITH COUNTY BOARD. The sheriff shall settle with and pay over to the county board at its regular sessions and as often as required all money collected or received by him for the use of or belonging to the county.

[R. L. s. 560] (921)

387.26 DEPUTIES ATTENDING COURT. The judge of the district court in each county, before the commencement of any general term, shall by order issued to the sheriff fix the number of deputies required during such term and direct the sheriff to furnish the same. The sheriff shall file this order with the clerk. Each such deputy shall receive such compensation as the judge shall determine, not exceeding \$10 per day, while attending such term of court.

[R L s 561; 1941 c 468 s 1; 1953 c 525 s 1; 1963 c 719 s 2] (922)

387.27 JAILERS, COMPENSATION. The judge of the district court shall from time to time determine the compensation to be allowed for the services of a jailer in each county in his district, which compensation shall be paid monthly out of the county treasury upon the warrant of the county auditor; such jailer to be appointed by the sheriff subject to the approval of the judge. When prisoners are committed to the jail from a county other than that in which the jail is situated such judge shall by order ratably apportion the amount to be paid by such county for jailer's fees. Upon the presentation of a certified copy of the order to the auditor of such county, he shall draw his warrant on the treasurer in favor of the jailer for the amount of such compensation.

[R. L. s. 562] (923)

387.28 [Repealed, 1947 c 457 s 3]

387.29 MOTOR VEHICLE. Subdivision 1. **Reimbursement for use of private vehicle.** As reimbursement for use of his own private automobile by a sheriff or deputy, in the performance of his official duties, he may be paid by the county a sum not to exceed ten cents per mile for every mile so traveled.

Subd. 2. **Motor vehicles furnished.** In lieu of the payment set forth in subdivision 1, the board of county commissioners, by resolution, may furnish to the sheriff of the county such necessary motor vehicles and supplies therefor as are needed to carry out the duties of his office.

Subd. 3. **Changes of policy.** A county reimbursing a sheriff pursuant to subdivision 1 shall not exercise the power conferred by subdivision 2 without concur-

rence of the sheriff prior to January 1, 1963. The furnishing of motor vehicles by any county to the sheriff previous to the effective date of Laws 1961, Chapter 194, is hereby approved and validated.

[1947 c 88 s 1; 1949 c 499 s 1; 1961 c 194 s 1]

387.31 COUNTY CIVIL SERVICE PERSONNEL SYSTEM. (a) In any county of this state contiguous to a metropolitan area as herein defined having a population of not less than 30,000 nor more than 150,000 according to the 1950 census wherein personnel in said county in the sheriff's office including the sheriff, full time deputies and office employees of eight or more in number, a civil service personnel system may be established.

(b) A metropolitan area is herein defined as two counties containing over one million population according to the 1950 census.

[1957 c 325 s 1]

387.32 RESOLUTION TO ESTABLISH SYSTEM. Subdivision 1. To establish such system the board of county commissioners of such county may adopt a resolution and file a certified copy in the office of the county auditor.

Subd. 2. Upon filing of such resolution the civil service personnel system in the sheriff's office of such county is established.

[1957 c 325 s 2, 3]

387.33 SHERIFF'S CIVIL SERVICE COMMISSION. Subdivision 1. After filing of their resolution the board of county commissioners shall at their next regular meeting appoint a commission to be designated as the sheriff's civil service commission.

Subd. 2. The commission shall consist of three members who shall be citizens of the state and residents of the county, and shall be appointed by the chairman of the county board, and the appointment of each commissioner, to be confirmed by majority vote of the county board. When first created one commissioner shall be appointed for one year, who shall be president of the commission, one for the term of two years, and one for the term of three years, and all commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving, hold any other office or employment under said county, any city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. Each commissioner, before entering upon his duties, shall subscribe and file with the register of deeds of said county an oath for the faithful discharge of his duties. There shall be appointed each year thereafter, in the manner of the original appointments, one member of the commission whose term of office shall be for three years, and each member of the commission shall be president of the commission during the last year of the term for which he is appointed.

Subd. 3. The commission shall meet as soon as possible after its appointment and thereafter on the first Monday in February each year at which meetings it shall select from its members a secretary who shall serve until his successor is elected.

The commission shall fix the times of its other meetings, and adopt, amend, and alter rules for its procedure.

[1957 c 325 s 4-6]

387.34 COMPENSATION OF COMMISSIONERS. Each commissioner shall serve without pay, but the county board shall allow the secretary such compensation, not exceeding \$200 per year, as it shall deem necessary and commensurate with the additional services rendered by him. The commission shall annually submit a budget to the board of county commissioners for approval, modification or rejection. The county shall pay all necessary expenses incurred by the commission within the budget and in the same manner as other county obligations are disbursed, from the general revenue.

[1957 c 325 s 7]

387.35 DUTIES OF COMMISSIONERS. Subdivision 1. The commission shall have supervision over the employment, promotion, discharge, and suspension of all deputies and employees in the sheriff's department, except special deputies with no salary.

The commission shall, immediately after its appointment and organization, grade and classify all positions and also all present employees of the sheriff's department; and any deputy regularly employed at the time of creation of the civil service com-

MINNESOTA STATUTES 1967

mission shall come under the jurisdiction of the commission without examination, and shall not be classified in a position with lower pay scale than said deputy is then receiving.

The commission shall prepare a service register, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful, in order to better ascertain the standing of each deputy and employee for the purpose of promotions.

The commission shall act in no more than an advisory capacity regarding salaries in the sheriff's department, and sections 387.31 to 387.45 shall in no way change the manner of fixing salaries of deputies.

Subd. 2. The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses, in the order of the date of application, of all applicants for examination and the positions or employment they seek. All applications shall be upon forms prescribed by the commission and contain such data and information as the commission deems necessary and useful.

[1957 c 325 s 8, 9]

387.36 RULES, PROMULGATION. The commission shall, immediately after its appointment and from time to time thereafter, make, alter, amend and change rules to promote efficiency in the sheriff's department and to carry out the purposes of sections 387.31 to 387.45. The rules shall provide among other things for:

- (1) The classification of all positions and employees in the sheriff's department;
- (2) Public competitive examinations to test the relative fitness of applicants;
- (3) Public advertisements of all examinations at least ten days in advance in a newspaper of general circulation in the county and posting the advertisement for ten days in the county courthouse;
- (4) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination, which shall be embraced in an eligible register;
- (5) The commission may by rule provide for striking any name from the eligible register after it has been two years thereon;
- (6) The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition, or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any wilful misrepresentation, deception, or fraud in connection with their application for employment;
- (7) The certification of the three names standing highest on the appropriate list to fill any vacancy, or any position within the sheriff's department, to which the sheriff may appoint his choice of the three in procedure according to law;
- (8) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position; provided, that whenever there are no names upon the eligible register, for particular positions, temporary appointment may be made for employment to continue until the position is filled by a candidate from the eligible register under provisions of the rules, provided that persons on the eligible list at the time of induction or enlistment during state of war or emergency into the armed forces of the United States shall retain their position on the eligible register;
- (9) Promotion based on competitive examination and upon records of efficiency, character, conduct and seniority, with appropriate credit given to members of the sheriff's department who are candidates in promotional examinations or examinations for a higher position.
- (10) Suspension for cause with or without pay for not longer than 60 days and for leave of absence, with or without pay; and
- (11) Such other rules not inconsistent with the provisions of this chapter as may, from time to time, be found necessary to secure the purposes of sections 387.31 to 387.45.

Copies of such rules shall be kept posted in a conspicuous place in the sheriff's main office.

[1957 c 325 s 10]

387.37 REMOVAL ONLY UPON CHARGES. No deputy sheriff or employee

after six months continuous employment shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in his own defense as in sections 387.31 to 387.45 hereinafter provided. Such charges shall be investigated by or before such civil service commission. The finding and decision of such commission shall be forthwith certified to the sheriff, to be forthwith enforced by him.

Nothing in sections 387.31 to 387.45 shall limit the power of the sheriff, or the superior officer in the sheriff's absence, to suspend a subordinate for a reasonable period not exceeding 30 days for the purpose of discipline, or pending investigation of charges when it appears such suspension is advisable.

[1957 c 325 s 11]

387.38 GRADES, STANDARDS. The commission shall ascertain the duties of each position, and employment in the sheriff's department of said county, and designate by rule as well as may be practicable the grade of each position. The commission shall prescribe standards of fitness and efficiency for each position and for each grade, and adapt its examinations thereto.

[1957 c 325 s 12]

387.39 EXAMINATIONS. Subdivision 1. All examinations shall be impartial, fair, and practical, designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question on the examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety, and integrity, and all applicants for position requiring special experience, skill, or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the sheriff and of any employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners.

Subd. 2. Notice of the time, place and scope of each examination shall be given by publication and posting as specified in section 387.36, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examination, after giving credit for character and previous successful experience, shall be entered with their address and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application, and if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made, the names selected shall be stricken from the eligible register and transferred to the service register.

[1957 c 325 s 13, 14]

387.40 CHARGES, HEARING. Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after no less than ten days written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of these charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent or employee of the county who receives compensation for his services, shall not be entitled to fees.

[1957 c 325 s 15]

387.41 REMOVAL AFTER HEARING. If, after investigation and trial by civil service commission, as herein provided, an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced, or suspended and his name may be stricken from the service register. If the board shall determine

that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary to notify such employee of the decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of the order or the receipt by the employee of written notice of the order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony, and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county, or upon special term set by a judge of said court. The court may hear such additional evidence as it deems relevant to the matter.

The question to be determined by the court shall be:

"Upon the evidence, was the order of the commission reasonable?"

After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other civil cases.

Whenever the sheriff or county attorney deems the civil service commissioners, or any one of them, to be failing their duties as outlined in sections 387.31 to 387.45, said sheriff or county attorney, shall request the county board to hold a hearing regarding the matter. The county board shall then determine this question: "Is the sheriff's civil service commission or any member thereof failing in the duties prescribed by sections 387.31 to 387.45?" Upon an affirmative finding by resolution the commission or member shall be deemed removed. The county board shall thereafter fill the vacancy by appointment for the balance of the term.

An applicant for examination, appointment or promotion in the sheriff's department of the county who shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal.

Any officer or employee of the sheriff's department, when operating under civil service in accordance with the provisions of this chapter, who shall in any manner participate in activities in support of any candidate or party, directly or indirectly solicit, receive, or pay, or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any candidate, party or political purpose, shall be guilty of a misdemeanor and shall be subject to suspension or removal.

[1957 c 325 s 16]

387.42 EMPLOYEES UNDER CIVIL SERVICE COMMISSION JURISDICTION.

Any deputy sheriff regularly employed on a full time basis at the time of the creation of the civil service commission shall automatically come under the jurisdiction of the civil service commission, consistent with duties of the commission as outlined in sections 387.31 to 387.45.

[1957 c 325 s 17]

387.43 DISCONTINUANCE OF CIVIL SERVICE COMMISSION.

Subdivision 1. Any sheriff's civil service commission hereafter created, pursuant to the provisions of sections 387.31 to 387.45, may be discontinued and abolished as follows: Upon a resolution adopted by the county board on a four-fifths vote, or upon a petition signed by ten percent of the number of legal voters voting at the last general county election, such resolution or petition to be filed with the county auditor, the following question shall be submitted to the voters of the county:

"Shall the sheriff's civil service commission be abolished?"

Subd. 2. When proper resolution or petition according to the preceding subdivision has been filed in the office of the county auditor, he shall submit the question to the voters of the county at the next following general county election occurring at least 30 days from such filing of such petition.

[1957 c 325 s 18, 19]

MINNESOTA STATUTES 1967

4099

SHERIFF 387.45

387.44 APPLICATION. Sections 387.31 to 387.45 shall not apply and shall have no force or effect upon any county until the requirements and procedure for creation of a sheriff's civil service commission as herein outlined have been complied with.

[1957 c 325 s 20]

387.45 VETERANS PREFERENCE LAW NOT AFFECTED. Sections 387.31 to 387.45 do not exclude or modify the application of Minnesota Statutes, Sections 197.45 and 197.46, known as the Veterans Preference Law.

[1957 c 325 s 21]