WEST VIRGINIA CODE: §7-14B-17

§7-14B-17. Removal, discharge, suspension or reduction in rank or pay; appeal; reduction in force; mandatory retirement age.

(a) No correctional officer of any county subject to the provisions of this article, may be removed, discharged, suspended or reduced in rank or pay except for just cause, which may not be religious or political, except as provided in section fifteen of this article; and no such correctional officer may be removed, discharged, suspended or reduced in rank or pay except as provided in this article and in no event until the correctional officer has been furnished with a written statement of the reasons for the action. In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the correctional officer desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the correctional officer demands it, the civil service commission shall grant a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At the hearing, the burden shall be upon the sheriff to justify his or her action, and in the event the sheriff fails to justify the action before the commission, then the correctional officer shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which the officer may have been prevented from performing his or her usual employment, and no charges may be officially recorded against the officer's record. The correctional officer, if reinstated or exonerated, shall, if represented by legal counsel, be awarded reasonable attorney fees to be determined by the commission and paid by the sheriff from county funds. A written record of all testimony taken at the hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection, unless an appeal is taken from the action of the commission.

(b) In the event the civil service commission sustains the action of the sheriff, the correctional officer has an immediate right of appeal to the circuit court of the county. In the event that the commission reinstates the correctional officer, the sheriff has an immediate right of appeal to the circuit court. In the event either the sheriff or the correctional officer objects to the amount of the attorneys fees awarded to the correctional officer, the objecting party has an immediate right of appeal to the circuit court. Any appeal must be taken within ninety days from the date of entry by the civil service commission of its final order. Upon an appeal being taken and docketed with the clerk of the circuit court of the county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof may be permitted to be introduced. The circuit court's decision is final, but the correctional officer or sheriff, as the case may be, against whom the decision of the circuit court is rendered has the right to petition the Supreme Court of Appeals for a review of the circuit court's decision as in other civil cases. The correctional officer or sheriff also has the right, where appropriate, to seek in lieu of an appeal, a writ of mandamus. The correctional officer, if reinstated or exonerated by the circuit court or the Supreme Court of

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Appeals, shall, if represented by legal counsel, be awarded reasonable attorney fees as approved by the court and the fees shall be paid by the sheriff from county funds.

(c) The removing sheriff and the correctional officer shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent them.

(d) If for reasons of economy or other reasons it is deemed necessary by any appointing sheriff to reduce the number of his or her correctional officers, the sheriff shall follow the procedure set forth in this subsection. The reduction in the numbers of the correctional officers of the county shall be effected by suspending the last person or persons, including probationers, who have been appointed as correctional officers: Provided, That in the event the number of correctional officers is increased in numbers to the strength existing prior to the reduction of correctional officers, the correctional officers suspended under the terms of this subsection shall be reinstated in the inverse order of their suspension before any new appointments of correctional officers in the county are made.

(e) Notwithstanding any other provision of this article to the contrary, no correctional officer in any county subject to the provisions of this article may serve as a correctional officer in any county subject to the provisions of this article after attaining the age of sixty-five years.

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