WEST VIRGINIA CODE CHAPTER 7 ARTICLE 14B

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§7-14B-1. Appointments and promotions of correctional officers.

Notwithstanding the provisions of article three, chapter six, and article seven, chapter seven of this code, all appointments and promotions of full-time correctional officers, as defined in section two of this article, in the offices of sheriffs of counties of twenty-five thousand population or more, shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided. On and after the effective date of this article, no person except a correctional officer appointed as jailer pursuant to the provisions of section two, article eight of this chapter shall be appointed, promoted, reinstated, removed, discharged, suspended or reduced in rank or pay as a full-time correctional officer, as defined in said section two, of any county in the State of West Virginia subject to the provisions hereof, in any manner or by any means other than those prescribed in this article.

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§7-14B-2. Definitions; population.

(a) For the purpose of this article:

(1) "Appointing officer" or "appointing sheriff" shall mean the sheriff of the county in which the appointment of a correctional officer shall be made pursuant to this article; and

(2) "Correctional officer" shall mean persons appointed by a sheriff whose sole duties as such correctional officer are within the scope of active operation and management of the county jail.

(b) For the purpose of this article, population shall be determined by reference to the last preceding census taken under the authority of the United States or of the Legislature of West Virginia.

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§7-14B-3. Civil service commission.

There shall be a civil service commission in each county having a population of twenty-five thousand or more. Each such civil service commission shall consist of five commissioners, two of whom shall be appointed by the bar association of such county, one of whom shall be appointed by the correctional officer association of such county, and two of whom shall be appointed by the county commission of such county. In the event the bar association or correctional officer association shall fail to make an appointment within the time prescribed in this section therefor, then such appointment shall be made by the county commission. The persons appointed commissioners shall be qualified voters of the county for which they are appointed, and at least three of the commissioners shall be persons in full sympathy with the purposes of this article. Not more than three of the commissioners, at any one time, shall be members of the same political party. The commissioners in each county shall be appointed as follows: Within sixty days from the effective date of this article, the authorities having the power to appoint members to the civil service commission shall appoint the five commissioners, the first two to be appointed by the bar association of the county shall serve for six years from the date of his appointment, the one to be appointed by the correctional officer association of the county shall serve for four years from the date of his appointment, and the two to be appointed by the county commission of the county shall serve for a term of two years from the date of his appointment. All subsequent appointments shall be made for terms of six years. In the event that any commissioner of the civil service commission shall cease to be a member thereof by virtue of death, final removal or other cause, a new commissioner shall be appointed to fill the unexpired term of that commissioner within ten days after said ex-commissioner shall have ceased to be a member of the commission. Such appointment shall be made by the authority who appointed the commissioner who is no longer a member of the commission. Each year the members of the commission shall, together, elect one of their number to act as president of the commission for a term of one year. The county commission may at any time remove a commissioner for good cause, which shall be stated in writing and made a part of the records of the commission: Provided, That once the county commission has removed any commissioner, such county commission shall within ten days thereafter file in the office of the clerk of the circuit court of the county a petition setting forth in full the reason for the removal and praying for the confirmation of the circuit court of the action of the county commission in removing the said commissioner. A copy of the petition shall be served upon the commissioner so removed simultaneously with its filing in the office of the clerk of the circuit court and shall have precedence on the docket of the circuit court and shall be heard by the court as soon as practicable upon the request of the removed commissioner. All rights hereby vested in the circuit court may be exercised by the judge thereof in vacation. In the event that no term of the circuit court is being held at the time of the filing of the petition, and the judge thereof cannot be reached in the county wherein the petition was filed, the petition shall be heard at the next succeeding term of the circuit court, whether regular or special, and the commissioner so removed shall remain removed until a hearing is had upon the petition of the county commission. The circuit court, or the judge thereof in vacation, shall hear and decide the issues presented by the petition. The county commission or commissioner, as the case may be, against whom the

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decision of the circuit court or judge thereof in vacation shall be rendered shall have the right to petition the supreme court of appeals for a review of the decision of the circuit court or the judge thereof in vacation as in other civil cases. In the event that the county commission shall fail to file its petition in the office of the clerk of the circuit court, as hereinbefore provided, within ten days after the removal of the commissioner, such commissioner shall immediately resume his position as a member of the civil service commission.

Any resident of the county shall have the right at any time to file charges against and seek the removal of any member of the civil service commission. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be matured for hearing and heard as a civil action by the circuit court of the county for which the commissioner serves as a member of the civil service commission or by the judge thereof in vacation. The party against whom the decision of the circuit court or judge thereof in vacation shall be rendered shall have the right to petition the supreme court of appeals for a review of the decision of the circuit court or judge thereof in vacation as in other civil cases.

No commissioner shall hold any other office (other than the office of notary public) under the United States, this state, or any municipality, county or other political subdivision thereof; nor shall any commissioner serve on any political party committee or take any active part in the management of any political campaign.

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§7-14B-4. Clerk of commission.

The clerk of the county commission shall be ex officio clerk of the civil service commission and shall supply to the commission all necessary clerical and stenographic services for the work of the civil service commission.

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§7-14B-5. Office and supplies for commission; appropriations required.

It shall be the duty of the county commission of every such county to cause suitable and convenient rooms and accommodations to be assigned and provided, furnished, heated and lighted for carrying on the work and examinations of the civil service commission. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use. It shall be the duty of the county commission and other county officials of every such county to aid the civil service commission in all proper ways in carrying out the provisions of this article, and to allow the reasonable use of public buildings, and to heat and light the same, for holding examinations and investigations and in all proper ways to facilitate the same.

The county commission of each such county is hereby required to appropriate sufficient funds for the purpose of carrying out the provisions of this article.

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§7-14B-6. Powers and duties of commission.

The civil service commission in each such county shall:

(1) Promulgate and enforce rules and regulations for carrying into effect the provisions of this article. All rules and regulations so prescribed may, from time to time, be added to, amended or rescinded.

(2) Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for the position of correctional officer received by the commission or by the sheriff shall be kept and preserved for a period of ten years, and all such records, recommendations of former employees excepted, and all written causes of removal, filed with the commission, shall, subject to reasonable rule and regulation, be open to public inspection.

(3) Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this article and the rules and regulations promulgated hereunder or concerning the action of any examiner or subordinate of the commission or any person in the public service with respect to the execution of this article; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations and to take testimony.

(4) Have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries herein authorized, and examine them and such public records as it shall require in relation to any matter which it has the authority to investigate. The fee of such witness for attendance and travel shall be the same as for witnesses before the circuit courts of this state and shall be paid from the appropriation for the incidental expenses of the commission. All officers in the public service and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by the commission. Any disobedience to, or neglect of, any subpoena issued by the commissioners, or any one of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court of the county in which the civil service commission is located, or the judge thereof in vacation, as if such subpoena has been issued by the court. The judge of the circuit court shall, upon the application of any one commissioner, in any such case, cause the process of that court to issue to compel any person or persons disobeying or neglecting any such subpoena to appear and to give testimony and produce evidence before the commissioner, or any one of them, and shall have the power to punish any such contempt.

(5) Prepare a position classification and promotion plan.

(6) Make an annual report to the county commission and sheriff showing its own actions, its rules and regulations, including all exceptions thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of this article. Such report shall be available for public inspection five days after it

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shall have been delivered to the county commission and sheriff.

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§7-14B-7. Rules and regulations of commission; notice and distribution thereof; probationary period for appointees.

The civil service commission in each such county shall promulgate rules and regulations providing for both competitive and medical examinations for the position of correctional officer in each such county subject to the provisions of this article, for appointments to the position of correctional officer and for promotions and for such other matters as are necessary to carry out the purposes of this article. Any such commission shall have the power and authority to require by rules and regulations a physical fitness examination as part of its competitive examination or as a part of its medical examination. Due notice of the contents of all rules and regulations and of any modifications thereof shall be given, by mail, in due season to the appointing officer, and said rules and regulations and any modifications thereof shall also be printed for public distribution. All original appointments on and after the effective date of this article to any position of correctional officer in any county subject to the provisions of this article shall be for a probationary period of one year: Provided, That at any time during the probationary period the probationer may be discharged for just cause in the manner provided in section seventeen of this article. If, at the close of this probationary period, the conduct or capacity of the probationer has not been satisfactory to the appointing sheriff, the probationer shall be notified, in writing, that he will not receive absolute appointment, whereupon his employment shall cease; otherwise, his retention in the position of correctional officer beyond the probationary term shall be equivalent to his absolute appointment.

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§7-14B-8. Form of application; age requirements; exceptions.

The civil service commission in each such county shall require persons applying for admission to any competitive examination provided for under this article or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed competitive examination a formal application in which the applicant shall state under oath or affirmation:

(1) His full name, residence and post-office address;

(2) His United States citizenship, age and the place and date of his birth;

(3) His health and his physical capacity for the position of correctional officer;

(4) His business, employments and residences for at least three previous years; and

(5) Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of correctional officer.

Blank forms for such applications shall be furnished by the commission, without charge, to all persons requesting the same. The commission may require, in connection with the application, such certificates of citizens, physicians or others, having pertinent knowledge concerning the applicant, as the good of the service may require.

No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than eighteen years of age at the date of application: Provided, That in the event any applicant formerly served as a correctional officer for a period of more than one year in the county to which he makes application, and resigned as a correctional officer at a time when there were no charges of misconduct or other misfeasance pending against him, within a period of two years preceding the date of his application, and at the time of his application resides within the county in which he seeks appointment by reinstatement, then such applicant shall be eligible for appointment by reinstatement in the discretion of the civil service commission provided he is not sixty-five years of age or over, and such applicant, providing his former term of service as a correctional officer so justifies, may be reappointed by reinstatement without a competitive examination, but such applicant shall undergo a medical examination; and if such applicant shall be so appointed by reinstatement as aforesaid, he shall be the lowest in rank in the jail next above the probationers of the office.

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§7-14B-9. Character and notice of competitive examinations; qualifications of applicants; competitive examinations to be prescribed by state civil service commission; press representatives; posting eligible list; medical examinations; exceptions as to and training of correctional officers serving on effective date of article.

All competitive examinations for appointments or promotions to all positions of correctional officer shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the person or persons examined to discharge the duties of the position sought by or them. The state civil service commission shall prepare and prescribe, from time to time, the competitive examination to be given by the civil service commission of each such county. All competitive examinations shall be open to all applicants who have fulfilled the preliminary requirements specified in other sections of this article.

Adequate public notice of the date, time and place of every competitive examination held under the provisions of this article, together with information as to the position to be filled, shall be given at least two weeks prior to such competitive examination. The civil service commission in each county shall adopt reasonable rules and regulations for permitting the presence of representatives of the press at any such competitive examinations. Such commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed such competitive examinations for positions as correctional officer, under this article, and shall indicate thereon such appointments as may be made from said list.

All applicants for appointment or promotion to any position as a correctional officer in any such county who have passed the competitive examination specified above shall, before being appointed or promoted, undergo a medical examination which shall be conducted under the supervision of a board composed of two doctors of medicine appointed for such purpose by the sheriff of the county. Such board must certify that an applicant is free from any bodily or mental defects, deformity or diseases which might incapacitate from the performance of the duties of the position desired and is physically fit to perform such duties before said applicant shall be appointed or promoted to any position. Notwithstanding the first sentence of this paragraph, in the event the commission deems it expedient, the medical examination may be given prior to the competitive examination, and if the medical examination is not passed as aforesaid, the applicant shall not be admitted to the competitive examination.

All correctional officers who are employed as correctional officers on the effective date of this article, shall be considered to have been appointed under the provisions of this article without regard to their age, and without competitive examination or medical examination, and shall hold their positions in accordance therewith for one year from the effective date of this article. The civil service commission shall, however, establish or prescribe a training program for correctional officers who are employed as such on the effective date of this article, giving due consideration to available training personnel and programs. Such

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correctional officers shall complete a two-hundred-hour basic correctional officer's training course as certified by the West Virginia department of corrections within a twelve-month period following appointment.

However, persons who have (1) completed a basic correctional officers training course or equivalent within the past three years prior to appointment or (2) who have been employed as a correctional officer in a jail for three years out of the last five years prior to appointment may be certified as correctional officers without basic training if in the judgment of the commission such persons are otherwise qualified. A correctional officer failing to qualify under the provisions of this paragraph may be continued in his position at the discretion of the sheriff but in no event for a period of more than one year. Such person may be reexamined at the discretion of the civil service commission of the county and may qualify as provided in this paragraph.

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§7-14B-10. Refusal to examine or certify; review thereof.

The commission may refuse to examine an applicant, or after examination to certify as eligible one, who is found to lack any of the established preliminary requirements for the examination or position of correctional officer for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position of correctional officer desired; or who is addicted to the habitual use of intoxicating liquors or drugs; or who has been convicted of a felony; or who has been guilty of infamous or notoriously disgraceful conduct; or who has been dismissed from public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in any such examination, or in securing his eligibility; or who refuses to comply with the rules and regulations of the commission.

If any applicant feels aggrieved by the action of the commission in refusing to examine him, or after examination in refusing to certify him as eligible, the commission shall, at the request of such applicant, appoint a date, time and place for a public hearing, at which time the applicant may appear, by himself or by counsel or in person and with counsel, and the commission shall then review its refusal to make such examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After such review, the commission shall file in its records the testimony taken and shall make a decision, which decision shall be final and not subject to judicial review, but under no circumstances shall the provisions of this article be construed, in the case of a refusal to examine an applicant for promotion or to certify an applicant as eligible for promotion, as depriving such applicant of his right to seek a writ of mandamus, if the application for such writ is made within twenty days from the date of the decision (made after hearing as aforesaid) refusing to examine or to certify him as eligible for promotion.

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§7-14B-11. Appointments from eligible list.

On and after the effective date of this article, every position of correctional officer, unless filled by promotion, reinstatement or reduction, shall be filled only in the manner specified in this section. The appointing sheriff shall notify the civil service commission of any vacancy in a position of correctional officer which he desires to fill, and shall request the certification of eligibles. The commission shall forthwith certify, from the eligible list, the names of the three persons thereon who received the highest averages at preceding competitive examinations held under the provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing sheriff shall, thereupon, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three names so certified: Provided, That should he make objection to the commission to one or more of these persons for any of the reasons stated in section ten of this article, and should such objection be sustained by the commission after a public hearing along the lines of the hearing provided for in said section ten, if any such hearing is requested, the commission shall thereupon strike the name of that person from the eligible list, and certify the next highest name for each person so stricken. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: Provided, however, That after any name has been three times rejected for the same or another position in favor of a name or names below it on the same list, the name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the foregoing provisions. When an appointment is made under the provisions of this section, it shall be, in the first instance, for the probationary period of twelve months, as provided in section seven of this article.

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§7-14B-12. Noncompetitive examination for filling vacancy; provisional appointment.

Whenever there are urgent reasons for filling a vacancy in any position of correctional officer and there is no list of persons eligible for appointment after a competitive examination, the appointing sheriff may nominate a person to the civil service commission for noncompetitive examination; and if such nominee shall be certified by the commission as qualified, after such noncompetitive examination and a medical examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination in the manner prescribed in section eleven of this article; but the provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments be made to the same position, under the provisions of this section.

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§7-14B-13. Vacancies filled by promotions; eligibility for promotion.

Vacancies in positions of correctional officer shall be filled, so far as practicable, by promotion from among persons holding positions in the next lower grade. Promotions shall be based upon merit and fitness, to be ascertained by competitive examinations to be provided by the civil service commission, and upon the superior qualifications of the persons promoted, as shown by their previous service and experience: Provided, That, except for a correctional officer appointed jailer pursuant to the provisions of section two, article eight of this chapter, no person shall be eligible for promotion from the lower grade to the next higher grade until such person shall have completed at least two years' service in the next lower grade: Provided, however, That notwithstanding the provisions of section one of this article, any correctional officer occupying the office of jailer pursuant to the provisions of section two, article eight of this chapter in any such county on the effective date of this article, or thereafter appointed to such office, shall, except as hereinafter provided in this section, be and shall continue to be entitled to all of the rights and benefits of the provisions of this article, except that he or she may be removed from such office of jailer without cause and the time spent by such person in the office of such jailer shall be added to the time, if any, served by such person during the entire time he or she was a correctional officer of such county prior to his or her appointment as jailer, and shall in all cases of removal, except for removal for just cause, retain the regular rank within said sheriff's office which he or she held, if any, at the time of his or her appointment to the office of jailer or which he or she has attained, if any, during his or her term of service as jailer. The provisions of this section shall be construed to apply and to inure to the benefit of all persons who have ever been subject to the provisions of this article. The commission shall have the power to determine in each instance whether an increase in salary constitutes a promotion.

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§7-14B-14. No inquiry shall be made concerning political or religious opinions or affiliations of applicants, etc.

No question in any form of application or in or during any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiry be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the sheriff's office against, or in favor of, an applicant, eligible or correctional officer in the office of any sheriff of any county subject to the provisions of this article because of his political or religious opinions or affiliations.

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§7-14B-15. Political activity of correctional officers prohibited; petition for vacating appointment; action on petition; appeal.

(a) On and after the effective date of this article, no correctional officer covered by the provisions of this article shall engage in any political activity of any kind, character or nature whatsoever, except to cast his vote at any election or shall act as an election official in any municipal, county or state election. Any correctional officer violating the provisions of this section shall have his appointment vacated and he shall be removed, in accordance with the pertinent provisions of this section.

(b) Any three residents of the county may file their written petition with the civil service commission thereof setting out therein the grounds upon which a correctional officer of such county should be removed for a violation of subsection (a) of this section. Notice of the filing of such petition shall be given by the commission to the accused correctional officer, which notice shall require him to file a written answer to the charges set out in the petition within thirty days of the date of such notice. The petition and answer thereto, if any, shall be entered upon the records of the civil service commission. If the answer is not filed within the time stated, or any extension thereof for cause which in the discretion of the civil service commission may be granted, an order shall be entered by the commission declaring the appointment of the correctional officer vacated. If such answer is filed within the time stated, or any extension thereof for cause which in the discretion of the civil service commission may be granted, the accused correctional officer may demand within such period a public hearing on the charges, or the civil service commission may, in its discretion and without demand therefor, set a date and time for a public hearing on the charges which hearing shall be within thirty days of the filing of said answer, subject, however, to any continuances which may in the discretion of the civil service commission be granted. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection if no appeal be taken from the action of the commission. The commission at the conclusion of the hearing, or as soon thereafter as possible, shall enter an order sustaining in whole or in part the charges made, or shall dismiss the charges as unfounded. In the event that charges are sustained in whole or in part, the order shall also declare the appointment of such correctional officer to be vacated and thereupon the sheriff shall immediately remove the correctional officer from his office and from the payroll of the county. Notice of the action of the commission shall be given by registered letter to the county commission and the sheriff. If the sheriff fails to immediately comply with the order of the commission, he shall be punished for contempt, upon application of the commission to the circuit court of the county.

(c) An appeal from the ruling of the commission may be had in the same manner and within the same time as specified in section seventeen of this article for an appeal from a ruling of a commission after hearing held in accordance with the provisions of said section seventeen.

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§7-14B-16. Training and retraining programs for all correctional officers required.

(a) The civil service commission of any such county shall establish or prescribe a training program which every correctional officer first appointed a correctional officer of such county on or after the effective date of this article must satisfactorily complete during his probationary period.

(b) The civil service commission of any such county shall also establish or prescribe retraining programs of at least sixteen hours which every correctional officer, whether such correctional officer was first appointed before or after the effective date of this article, must satisfactorily complete annually after the effective date of this article, in order to continue as a correctional officer of such county.

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§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 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.

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(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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§7-14B-18. Vacations for correctional officers.

The county commission of each county shall allow the correctional officer in its employ vacation time accrued in the following manner: For correctional officers with less than five years of service, vacation time shall be accrued at the rate of one and one-quarter days for each calendar month of service; for correctional officers with five to ten years of service, vacation time shall be accrued at the rate of one and one-half days for each calendar month of service; for correctional officers with ten to fifteen years of service, vacation time shall be accrued at the rate of one and three-quarters days for each calendar month of service; and for correctional officers with fifteen or more years of service, vacation time shall be accrued at the rate of two days for each calendar month of service.

Each correctional officer shall only receive vacation time for each month in which he shall have worked one hour more than one half the normal working hours in a given month as prescribed by the sheriff.

Accrued vacation time may be carried forward from one calendar year to the next, in accordance with county policy.

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§7-14B-18a. Correctional officers who are required to work during holidays; how compensated.

From the effective date of this section, if any correctional officer is required to work during a legal holiday as is specified in section one, article two, chapter two of this code, or if a legal holiday falls on the member's regular scheduled day off, he or she shall be allowed equal time off at such time as may be approved by the sheriff under whom he or she serves, or in the alternative, shall be paid at a rate not less than one and one-half times his or her regular rate of pay.

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§7-14B-19. Sick leave.

(a) The county commission of each county shall allow the correctional officer sick leave with pay to be computed as follows: Correctional officers shall be entitled to one and one-half days sick leave for each calendar month worked, or greater part thereof.

(b) Sick leave shall be granted only when illness on the part of or injury to the correctional officer incapacitates for duty: Provided, That the sheriff of the county in which the correctional officer is employed shall have the authority to require the correctional officer to produce a statement from an attending physician for each day of sick leave beyond two days. This statement shall include dates of treatment and also state that the correctional officer was unable to work. In the absence of the required physician's statement, annual leave shall be charged for the entire period.

(c) Correctional officers may accumulate yearly sick leave in accordance with policy to be established by the county commission.

(d) In the event of illness, a correctional officer may take emergency sick leave without pay after all accrued sick leave, annual leave and compensatory time available to such full-time correctional officer has been exhausted: Provided, That the total number of days sick leave and emergency sick leave used during such illness shall not exceed the total number of days of sick leave which may be accumulated under the provisions of subsection (c) of this section by any correctional officer with the same number of years of service.

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§7-14B-20. Offenses and penalties.

Any person who makes an appointment or promotion to any position, or selects a person for employment, contrary to the provisions of this article, or willfully refuses or neglects otherwise to comply with, or to conform to, any of the provisions of this article, or violates any of such provisions, shall be deemed guilty of a misdemeanor.

Any commissioner or examiner, or any other person, who shall willfully, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person with respect to his right of examination or registration according to this article, or to any rules and regulations promulgated pursuant thereto, or who shall willfully or corruptly, falsely mark, grade, estimate or report upon such examination or proper standing of any person so examined, registered, or certified, pursuant to the provisions of this article, or aid in so doing, or who shall willfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment or promotion to any position of any person so examined, registered or certified, or to be so examined, registered or certified; or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense, be deemed guilty of a misdemeanor.

Any person convicted of any such misdemeanor offense shall be fined not less than $50 nor more than $1,000, or imprisoned in the county jail not more than one year, or both fined and imprisoned, in the discretion of the court.

WV Legislature

§7-14B-21. County commission of counties with a population of less than 25,000 may place correctional officers under civil service; protest and election with respect thereto.

The county commission of any county having a population of less than 25,000 may by order entered of record provide that the provisions of this article providing civil service for correctional officers shall apply to such county on and after the effective date of this article. A copy of such order, together with a notice advising the qualified voters of such county of their right to protest the placing of correctional officers of such county under civil service, shall be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county.

In the event 15 percent of the qualified voters of such county protest such order, by petition duly signed by them in their own handwriting (which petition may be signed in any number of counterparts) and filed with the county clerk of such county within 60 days after publication of such copy and notice, such order shall not become effective unless and until it is ratified by a majority of the legal votes cast with respect to the question of civil service coverage for the correctional officers of such county by the qualified voters of such county at a primary or general election. Any such election shall be conducted and superintended and the results thereof ascertained as provided by law for primary or general elections, as the case may be.

Whenever the correctional officers of any county are placed under civil service pursuant to the provisions of this section, such civil service system for the correctional officers of such county shall thereupon become mandatory and all of the provisions of this article shall apply to the correctional officers of such county with like effect as if said county had a population of 25,000 or more.

WV Legislature

§7-14B-22. Inconsistent acts repealed; once established civil service remains mandatory.

All acts and parts of acts of the Legislature, whether general, special or local, in relation to correctional officers inconsistent with the provisions of this article shall be, and the same are, hereby repealed to the extent of such inconsistency.

Any civil service system for correctional officers in any county with a population of twenty-five thousand or more shall remain mandatory and shall be governed by the provisions of this article even if the population of such county shall at any time decrease below twenty-five thousand.

WV Legislature

§7-14B-23. Severability.

If any provision of this article or its application to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are hereby declared to be severable.

WV Legislature