WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
HOUSE BILL No. 779

(By Mr. Stephens)

Passed April 11, 1981
In Effect Ninety Days From Passage
ENROLLED

H. B. 779
(By Mr. Stephens)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removal, discharge, suspension or reduction in rank or pay of a deputy sheriff; reduction in number of deputies; age requirements; payment of attorney fees.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§7-14-17. Removal, discharge, suspension or reduction in rank or pay; appeal; reduction in number of deputies; no person subject to article may serve as deputy after age sixty-five.

1 (a) On and after the effective date of this article, no deputy sheriff of any county subject to the provisions of this article shall be removed, discharged, suspended or reduced in rank or pay except for just cause, which shall not be religious or political, except as provided in section fifteen of this article; and no such deputy shall on and after the effective date of this article, be removed, discharged, suspended or reduced except as provided in this article and in no event until he shall have been furnished
with a written statement of the reasons for such 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 deputy sought to be removed, discharged, suspended or reduced desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the deputy sought to be removed, discharged, suspended or reduced shall demand it, the civil service commission shall grant him 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 such hearing the burden shall be upon the removing, discharging, suspending or reducing sheriff, hereinafter in this section referred to as “removing sheriff,” to justify his action, and in the event the removing sheriff fails to justify his action before the commission, then the deputy removed, discharged, suspended or reduced shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. The deputy if reinstated or exonerated, shall, if represented by legal counsel, be awarded an attorney fee of no more than two hundred fifty dollars and such fee shall be determined by the commission and paid by the removing sheriff from county funds. 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.

(b) In the event that the civil service commission shall sustain the action of the removing sheriff, the deputy removed, discharged, suspended or reduced on or after the effective date of this article, shall have an immediate right of appeal to the circuit court of the county. In the event that the commission shall reinstate the deputy removed, discharged, suspended or reduced, the removing sheriff shall have an immediate right of appeal to said 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 said county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, but the deputy or removing sheriff, as the case may be, against whom the decision of the circuit court is rendered shall have the right to petition the supreme court of appeals for a review of the circuit court's decision as in other civil cases. Such deputy or removing sheriff shall also have the right, where appropriate, to seek in lieu of an appeal, a writ of mandamus. The deputy, if reinstated or exonerated by the circuit court shall, if represented by legal counsel, be awarded an attorney fee not to exceed five hundred dollars, and if reinstated or exonerated by the supreme court of appeals, shall be awarded an attorney fee not to exceed five hundred dollars, and such fees shall be paid by the removing sheriff from county funds: Provided, that the aggregate amount of attorney fees awarded by the commission, the circuit court and the supreme court of appeals, shall not exceed one thousand dollars for any member litigant.

(c) The removing sheriff and the deputy sought to be removed, discharged, suspended or reduced 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 shall, on and after the effective date of this article, be deemed necessary by any appointing sheriff to reduce the number of his deputies, he shall follow the procedure set forth in this subsection (d). The reduction in the numbers of the deputy sheriffs of the county shall be effected by suspending the last man or men, including probationers, who have been appointed as deputies. Such removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, that in the event the number of deputies shall again be increased in numbers to the strength existing prior to such reduction of deputies, the deputies suspended under the terms of this subsection (d) shall be reinstated in the inverse order of their suspension.
89 before any new appointments of deputy sheriffs in the county
90 shall be made.

91 (e) Notwithstanding any other provision of this article,
92 no deputy sheriff in any county subject to the provisions of
93 this article shall, on or after the effective date of this article,
94 serve as a deputy sheriff in any county subject to the pro-
95 visions of this article after he attains the age of sixty-five.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Bayles
Chairman Senate Committee

Toney E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Judd C. Wells
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. A. Strawberry
President of the Senate

Judge M. Lee Dr.
Speaker House of Delegates

The within approved this the 26th day of April, 1981.

John J. Dugan
Governor