

No. 49. An act relating to sheriffs, deputy sheriffs, and the service of process.

(S.132)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(d) Early retirement allowance.

(1) Upon early retirement, a group A member, except facility employees in the ~~department of corrections~~ Department of Corrections, shall receive an early retirement allowance which shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section, based on the average final compensation and years of creditable service at the date of early retirement. However, if a group A member has completed 30 years of creditable service but has not reached normal retirement date, the early retirement allowance shall be equal to the normal retirement allowance computed under subsection (b) of this section. Group A members who have 20 years of service as facility employees in the ~~department of corrections~~ Department of Corrections shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction.

(2)(A) Upon early retirement, a group F member, except facility employees of the ~~department of corrections~~ Department of Corrections and ~~department of corrections~~ Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the

community and Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under age 62 at the time of early retirement. Group F members who have 20 years of service as facility employees of the ~~department of corrections~~ Department of Corrections, as ~~department of corrections~~ Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community or as Woodside facility employees or as Vermont State Hospital employees, or as employees of its successor in interest, who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the ~~department of corrections~~ Department of Corrections, Woodside facility, or the Vermont State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

(B) Upon early retirement, a group F member first included in the membership of the system on or after July 1, 2008, except facility employees of the ~~department of corrections~~ Department of Corrections and ~~department of corrections~~ Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community and

Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by:

(i) one-eighth of one percent for each month the member is under age 65, provided the member has accrued 35 years of service at the time of early retirement;

(ii) one-quarter of one percent for each month the member is under age 65, provided the member has accrued 30 years of service but less than 35 years of service at the time of early retirement;

(iii) one-third of one percent for each month the member is under age 65, provided the member has accrued 25 years of service but less than 30 years of service at the time of early retirement;

(iv) five-twelfths of one percent for each month the member is under age 65, provided the member has accrued 20 years of service but less than 25 years of service at the time of early retirement;

(v) five-ninths of one percent for each month the member is under age 65, provided the member has accrued less than 20 years of service at the time of early retirement.

(3) Upon early retirement, a group D member shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-quarter of one percent for each month the member is under age 62 at the time of early retirement.

(4) Notwithstanding subdivisions (1) and (2) of this subsection, an ~~elected county sheriff, an employee of the department of fish and wildlife~~ Department of Fish and Wildlife assigned to law enforcement duties, an employee of the ~~military department~~ Military Department assigned to airport firefighting duties, or a group C member shall upon early retirement receive an early retirement allowance which shall be equal to his or her normal retirement allowance computed under subsection (b) of this section.

(5) Notwithstanding subdivisions (1) and (2) of this subsection, a state's attorney or sheriff who has completed 20 years of creditable service, of which 15 years has been as a state's attorney or sheriff, shall receive an early retirement allowance equal to the normal retirement allowance, at age 55, without reductions.

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Sec. 2. 12 V.S.A. § 691 is amended to read:

§ 691. SERVICE OF CIVIL OR CRIMINAL PROCESS

(a) Sheriffs and constables may serve either civil or criminal process, anywhere within the ~~state~~ State and returnable to any court.

(b) Sheriffs and constables shall not be subject to civil or criminal liability for unlawful trespass in serving either civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, provided the scope of their entrance onto the property of another is no more than necessary to effectuate the service of process.

Sec. 3. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

(1) Actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent; or

(2) Signs or placards so designed and situated as to give reasonable notice.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters a building other than a residence, whose normal access is locked, or a residence in violation of an order of any court of competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

(e) A law enforcement officer shall not be prosecuted under subsection (a) of this section if he or she is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of his or her entrance onto the land or place of another is no more than necessary to effectuate the service of process.

Sec. 4. 24 V.S.A. § 307 is amended to read:

§ 307. DEPUTY SHERIFFS; APPOINTMENTS AND REVOCATION

(a) A sheriff may appoint deputies who need not be legal residents of the State, one or more of whom shall be a woman. ~~With the approval of the attorney general, a sheriff may appoint special deputies, who need not be legal residents of the state.~~ The duties of ~~such special~~ deputy sheriffs shall be the same as those imposed by law on sheriffs and other peace officers in the enforcement of the criminal law. ~~No action for official malfeasance or neglect of such special deputy sheriff, or for a cause affecting his or her administration of the office, shall be sustained against the sheriff.~~ A deputy ~~or such special~~ deputy shall not perform an official act until his or her deputation and oath are filed for record in the office of the county clerk. A sheriff may dismiss a deputy ~~or such special deputy~~ and revoke his or her deputation. Such revocation shall be recorded in the office of the county clerk and shall take effect from the day of such record.

(b) A sheriff may appoint persons as deputy sheriffs to serve civil process, including child support enforcement as provided in 15 V.S.A. § 800, whom the

sheriff shall train and supervise. Such deputies need not be qualified law enforcement officers, but if not so qualified shall not have arrest powers, and shall not carry firearms in performance of their duties in serving civil process.

(c) The powers of deputy sheriffs ~~and special deputy sheriffs~~ with respect to criminal matters and the enforcement of the law may be exercised statewide.

Sec. 5. 24 V.S.A. § 310 is amended to read:

§ 310. ~~DEPUTY SHERIFFS, UNIFORMS~~

~~A deputy sheriff shall not wear any uniform unless it has been approved by the attorney general and is standard for all deputy sheriffs in the state. A deputy sheriff shall not wear a deputy sheriff's uniform when he is not actually engaged in his duties as a deputy sheriff. [Repealed.]~~

Sec. 6. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

(a) There is established a ~~department of state's attorneys~~ Department of State's Attorneys and Sheriffs which shall consist of the 14 state's attorneys and 14 sheriffs. The state's attorneys shall elect an ~~executive committee~~ Executive Committee of five state's attorneys from among their members. The members of the ~~executive committee~~ Executive Committee shall serve for terms of two years. There shall be one general appropriation for the ~~department of state's attorneys~~ Department of State's Attorneys and Sheriffs.

(b) The ~~executive committee~~ Executive Committee and the Executive Committee of the Vermont Sheriff's Association shall appoint an ~~executive director~~ Executive Director who shall serve at the pleasure of the ~~committee~~ Committees. The ~~executive director~~ Executive Director shall be an exempt employee.

(c) The ~~executive director~~ Executive Director shall prepare and submit all budgetary and financial materials and forms which are required of the head of a department of state government with respect to all state funds appropriated for all of the Vermont state's attorneys and sheriffs. At the beginning of each fiscal year, the ~~executive director~~ Executive Director, with the approval of the ~~executive committee~~ Executive Committee, shall establish allocations for each of the state's attorneys' offices from the state's attorneys' appropriation. Thereafter, the ~~executive director~~ Executive Director shall exercise budgetary control over these allocations and the general appropriation for state's attorneys. The Executive Director shall monitor the sheriff's transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the state's attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the ~~executive committee~~ Executive Committee directs. The ~~executive director~~ Executive Director may employ clerical staff as needed to carry out the functions of the ~~department~~ Department. ~~The executive director shall provide similar services to the sheriffs.~~

(d)(1) If an individual state's attorney is aggrieved by a decision of the ~~executive director~~ Executive Director pertaining to an expenditure or proposed expenditure by the state's attorney, the question shall be decided by the ~~executive committee~~ Executive Committee. The decision of the ~~committee~~ Committee shall be final.

(2) If an individual sheriff is aggrieved by a decision of the Executive Director pertaining to an expenditure or proposed expenditure by the sheriff, the question shall be decided by the Executive Committee of the Vermont Sheriff's Association. The decision of the Executive Committee of the Vermont Sheriff's Association shall be final.

(e) [Repealed.]

Sec. 7. 24 V.S.A. § 1935 is amended to read:

§ 1935. POWERS

Police officers who are employed by a police department established under this chapter or pursuant to charter shall have the same powers as sheriffs in criminal matters and the enforcement of the law and the same powers, immunities, and matters of defense in serving criminal and civil process. The powers granted to police officers under this section may be exercised statewide.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Date the Governor signed the bill: May 24, 2013