

1 S.132

2 Introduced by Senators Sears and White

3 Referred to Committee on Government Operations

4 Date: February 26, 2013

5 Subject: County government; county officers; sheriffs; unlawful trespass

6 Statement of purpose of bill as introduced: This bill proposes to make
7 miscellaneous changes to laws governing sheriffs and deputy sheriffs and to
8 provide that a person shall not be prosecuted for unlawful trespass when
9 serving civil or criminal process.

10 An act relating to sheriffs, deputy sheriffs, and the service of process

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

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

13 § 459. NORMAL AND EARLY RETIREMENT

14 * * *

15 (d) Early retirement allowance.

16 (1) Upon early retirement, a group A member, except facility employees
17 in the ~~department of corrections~~ Department of Corrections, shall receive an
18 early retirement allowance which shall be the actuarial equivalent of the
19 normal retirement allowance computed under subsection (b) of this section,
20 based on the average final compensation and years of creditable service at the

1 date of early retirement. However, if a group A member has completed 30
2 years of creditable service but has not reached normal retirement date, the early
3 retirement allowance shall be equal to the normal retirement allowance
4 computed under subsection (b) of this section. Group A members who have 20
5 years of service as facility employees in the ~~department of corrections~~
6 Department of Corrections shall receive an early retirement allowance which
7 shall be equal to the normal retirement allowance at age 55 without reduction.

8 (2)(A) Upon early retirement, a group F member, except facility
9 employees of the ~~department of corrections~~ Department of Corrections and
10 ~~department of corrections~~ Department of Corrections employees who provide
11 direct security and treatment services to offenders under supervision in the
12 community and Woodside facility employees, shall receive an early retirement
13 allowance which shall be equal to the normal retirement allowance reduced by
14 one-half of one percent for each month the member is under age 62 at the time
15 of early retirement. Group F members who have 20 years of service as facility
16 employees of the ~~department of corrections~~ Department of Corrections, as
17 ~~department of corrections~~ Department of Corrections employees who provide
18 direct security and treatment services to offenders under supervision in the
19 community or as Woodside facility employees or as Vermont State Hospital
20 employees, or as employees of its successor in interest, who provide direct
21 patient care shall receive an early retirement allowance which shall be equal to

1 the normal retirement allowance at age 55 without reduction; provided the
2 20 years of service occurred in one or more of the following capacities as an
3 employee of the ~~department of corrections~~ Department of Corrections,
4 Woodside facility, or the Vermont State Hospital, or its successor in interest:
5 facility employee, community service center employee, or court and reparative
6 service unit employee.

7 (B) Upon early retirement, a group F member first included in the
8 membership of the system on or after July 1, 2008, except facility employees
9 of the ~~department of corrections~~ Department of Corrections and ~~department of~~
10 ~~corrections~~ Department of Corrections employees who provide direct security
11 and treatment services to offenders under supervision in the community and
12 Woodside facility employees, shall receive an early retirement allowance
13 which shall be equal to the normal retirement allowance reduced by:

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

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

1 (iii) one-third of one percent for each month the member is under
2 age 65, provided the member has accrued 25 years of service but less than
3 30 years of service at the time of early retirement;

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

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

10 (3) Upon early retirement, a group D member shall receive an early
11 retirement allowance which shall be equal to the normal retirement allowance
12 reduced by one-quarter of one percent for each month the member is under age
13 62 at the time of early retirement.

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

1 (5) Notwithstanding subdivisions (1) and (2) of this subsection, a state's
2 attorney or sheriff who has completed 20 years of creditable service, of which
3 15 years has been as a state's attorney or sheriff, shall receive an early
4 retirement allowance equal to the normal retirement allowance, at age 55,
5 without reductions.

6 * * *

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

8 § 691. SERVICE OF CIVIL OR CRIMINAL PROCESS

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

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

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

17 § 3705. UNLAWFUL TRESPASS

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

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

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

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

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

13 (d) A person who enters a dwelling house, whether or not a person is
14 actually present, knowing that he or she is not licensed or privileged to do so
15 shall be imprisoned for not more than three years or fined not more than
16 \$2,000.00, or both.

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

(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.

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

2 § 307. DEPUTY SHERIFFS; APPOINTMENTS AND REVOCATION

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

16 (b) A sheriff may appoint persons as deputy sheriffs to serve civil process,
17 including child support enforcement as provided in 15 V.S.A. § 800, whom the
18 sheriff shall train and supervise. Such deputies need not be qualified law

1 enforcement officers, but if not so qualified shall not have arrest powers, and
2 shall not carry firearms in performance of their duties in serving civil process.

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

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

6 § 310. ~~DEPUTY SHERIFFS, UNIFORMS~~

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

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

12 § 367. ~~DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS~~

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

1 ~~(b) The executive committee Executive Committee shall appoint an~~
2 ~~executive director Executive Director who shall serve at the pleasure of the~~
3 ~~committee Committee. The executive director Executive Director shall be an~~
4 ~~exempt employee.~~

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

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

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

2 § 1935. POWERS

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

9 ~~Sec. 8. 32 V.S.A. § 1591 is amended to read.~~

10 § 1591. SHERIFFS AND OTHER OFFICERS

11 There shall be paid to sheriffs' departments and constables in civil causes
12 and to sheriffs, deputy sheriffs, and constables for the transportation and care
13 of prisoners, juveniles, and mental patients the following fees.

14 ~~(1) Civil process:~~

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* * *

(E) Quarterly, 15 percent of the gross civil process fees received by a sheriff's department during that quarter shall be forwarded to the state treasurer for deposit in the state's general fund. [Repealed.]

* * *

~~Sec. 9.~~ *Sec. 8.* EFFECTIVE DATE

This act shall take effect on July 1, 2013.