

CHAPTER 387

SHERIFF

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387.01 BOND; OATH. Every person elected or appointed to the office of sheriff, before entering upon his duties, shall give bond to the state in a sum not less than \$25,000 in counties whose population exceeds 150,000, and not less than \$5,000 in all other counties, to be approved by the county board, conditioned that he will well and faithfully in all things perform and execute the duties of his office, without fraud, deceit, or oppression, which bond, with his oath of office, shall be filed for record with the register of deeds.

[R. L. s. 547] (905)

387.02 FAILURE TO QUALIFY. If any person elected to the office of sheriff fails to give the bond and take the oath prescribed by law on or before January tenth next succeeding his election, it shall be deemed a refusal to serve.

[R. L. s. 548] (906)

387.03 POWERS AND DUTIES. The sheriff shall keep and preserve the peace of his county, for which purpose he may call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority and to him delivered, attend upon the terms of the district court, and perform all of the duties pertaining to his office, including searching and dragging for drowned bodies and searching and looking for lost persons.

[R. L. s. 549; 1943 c. 330 s. 1] (907)

387.04 DUTIES. In each county of the state having or which may hereafter have a population of 300,000, the sheriff shall perform all the duties and services now or which may hereafter be required by law to be performed by him and in addition shall serve all papers, post all notices named by law to be served or posted in behalf of the state or of the county for which he is elected, including all papers to be served or notices to be posted by the board of county commissioners, the county auditor, or by any other county officer.

[1913 c. 440 s. 2] (907-1)

387.05 SHALL GIVE CERTIFICATE, WHEN. Every sheriff, if required, shall give without charge to any person delivering process or papers to him for service or execution a certificate under his hand specifying therein the names of the parties, the nature of the process or paper, and the day of such delivery.

[R. L. s. 550] (908)

387.06 FAILURE TO PAY OVER MONEY. If any sheriff or deputy shall fail to settle with and pay over to the county board, according to law, any money collected or received by him for the use of, or belonging to, the county or shall fail to settle with and pay over to the person entitled thereto any money he may have collected or received by virtue of any execution, process, judgment, order, or decree, or in any other way by virtue of his office, such board or person may proceed against such sheriff or deputy in a summary manner before the district court, by an order to show cause why he should not pay over such money; and,

upon the hearing thereof, the court may order such sheriff or deputy to pay to such board or person the amount found due, with 20 per cent thereon as damages for such failure, together with the costs of the proceedings; and, upon failure to comply with such order, such sheriff or deputy may be committed to jail as for a contempt.

[R. L. s. 551] (909)

387.07 NEGLECT OF DUTY. If any sheriff shall neglect to make due return of any writ or other process or paper delivered to him to be executed or be guilty of any misconduct in relation to the execution thereof, he may be proceeded against by the party interested in the manner provided in section 387.06, and, in addition to requiring the performance of the duty neglected, or the correction of the injury done, the court may impose upon such sheriff a fine, for the use of the county, not exceeding \$200; but nothing herein shall prevent the person injured from maintaining an action for damages against the sheriff or upon his official bond.

[R. L. s. 552] (910)

387.08 CRIMINAL PROCESS, WHEN FILED. On or before the last day of the term for which the same was issued, every sheriff or other officer or person who serves a subpoena or other process issued by the court in a criminal action shall file the same, with a statement of his fees endorsed thereon, with the clerk of such court.

[R. L. s. 553] (911)

387.09 NOT TO BUY AT SHERIFF'S SALE. No sheriff shall become the purchaser either directly or indirectly of any property, real or personal, by him exposed to sale by virtue of any mortgage, judgment, execution, or other process; and all such purchases made by any sheriff, or any other person for him, shall be void.

[R. L. s. 554] (912)

387.10 POWERS AFTER EXPIRATION OF TERM. Every sheriff going out of office by expiration of his term may execute and return all writs, processes, and orders which shall then be in his hands, and which he shall have begun to execute by service, levy, or collection of money thereon. If such sheriff dies, or from any cause is unable to act, the sheriff in office, upon the delivery to him of any such writ, process, or order, together with the return or memorandum of the action, if any, of such late sheriff under the same, shall complete the execution thereof in the same manner and with like effect as if the same had been originally delivered to him and the return of such succeeding sheriff upon any such process or order or his deed given in pursuance of the execution thereof shall be prima facie evidence of the disability of the late sheriff to complete the execution of such process or give such deed.

[R. L. s. 555] (913)

387.11 COUNTY JAIL. The sheriff shall have the charge and custody of the county jail and receive and safely keep therein all persons lawfully committed thereto and not release any person therefrom unless discharged by due course of law.

[R. L. s. 556] (914)

387.12 MAY CONVEY PRISONERS. The sheriff or other officer who legally arrests a person in any county may pass through any other county by him deemed necessary to convey such person to the place commanded by the process under which the arrest was made.

[R. L. s. 557] (915)

387.13 PROHIBITIONS. No sheriff, deputy sheriff, or coroner shall appear or practice as an attorney, solicitor, or counselor in any court, or draw or fill up any process, pleading, or paper for any party in any action or proceeding, nor, with intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; nor shall any sheriff or deputy sheriff be eligible to any other lucrative civil office, except village or city marshal. Either of such officers, for a violation of any of the provisions of this section, shall forfeit not to exceed \$50.00, to be recovered by the county in a civil action.

[R. L. s. 558] (916)

387.14 DEPUTIES. Every sheriff shall appoint under his hand a sufficient number of persons as deputy sheriffs, for whose acts he shall be responsible and whom he may remove at pleasure. Before entering upon his official duties, the oath and appointment of each shall be filed with the register of deeds.

[R. L. s. 559] (917)

387.15 WOMEN MAY BE APPOINTED DEPUTY SHERIFFS. The presiding judge of any district court at any time before the return of a verdict by a petit jury composed of both men and women, serving upon a case pending therein, by order issued to the sheriff and entered upon the minutes of the court, may direct the sheriff to appoint a female legal voter of the county as special deputy sheriff or bailiff to serve until the discharge of such jury from further service upon the pending case. The appointment shall forthwith be made and entered upon the minutes of the court and before entering upon the performance of her duties, the person so appointed shall take and subscribe the oath by law required of deputy sheriffs and file the same with the clerk.

[1921 c. 369 s. 1] (918)

387.16 TO HAVE CHARGE OF JURIES WHEN. Upon taking the oath by law required by officers in charge of petit juries the person so appointed may be directed by the court to have charge of such jury conjointly with the male deputy sheriff or bailiff performing such duty. Female special deputy sheriffs and bailiffs so appointed shall in all things perform the duties and be subject to the penalties by law prescribed for other officers having charge of petit juries.

[1921 c. 369 s. 2] (919)

387.17 COMPENSATION. Each such deputy shall receive as compensation \$3.00 per day while in attendance upon the court in charge of such jury.

[1921 c. 369 s. 3] (920)

387.18 SALARIES IN LIEU OF FEES. Counties having less than 75,000 inhabitants according to the then next preceding state or federal census shall pay to their sheriffs an annual salary and their expenses for official services rendered by them for their respective counties in lieu of fees as heretofore provided, excepting in counties having an area of more than 2,500 square miles and a population of more than 15,000 and less than 19,000.

[1917 c. 312 s. 1; 1933 c. 24 s. 1] (920-1)

387.19 DIVISION OF COUNTIES IN CLASSES. Counties having an area of less than 2,300 square miles shall be divided into classes according to their population as follows: Counties having less than 10,000 inhabitants shall constitute class A; counties having 10,000, but less than 15,000, shall be class B; counties having 15,000, but less than 20,000, shall be class C; counties having 20,000, but less than 25,000, shall be class D; counties having 25,000, but less than 30,000, shall be class E; counties having 30,000, but less than 35,000, shall be class F; counties having an area of more than 2,300 square miles and a population less than 40,000 and counties having 35,000, but less than 40,000, shall be class G; counties having a population of 40,000, but less than 45,000, shall be class H; counties having a population of 45,000, but less than 50,000, shall be class I; and counties having a population of 50,000, but less than 75,000, shall be class K.

[1917 c. 312 s. 2; 1933 c. 24 s. 2] (920-2)

387.20 SALARIES. The several sheriffs of all the counties classified in accordance with the provisions of section 387.19 shall receive a yearly salary and their expenses in lieu of fees for all services rendered by them for their respective counties, excepting those required of them by the tax laws of this state and the salary shall be payable in 12 equal instalments each on the last secular day of each month out of the county revenue fund on warrants drawn by the county auditor upon the county treasurer and the minimum amount of those salaries shall be graded according to the classes described in section 387.19.

The minimum salaries of sheriffs of the counties included in class A shall be \$1,000; class B, \$1,100; class C, \$1,200; class D, \$1,300; class E, \$1,400; class F, \$1,500; class G, \$2,000; class H, \$2,200; class I, \$2,400; class K, \$2,500. In addition to such salary each sheriff shall be reimbursed for all expenses incurred by him in the performance of his official duties for his county and his claim for such expenses shall be prepared, allowed, and paid in the same manner as other claims against counties are prepared, allowed, and paid except that the expenses incurred by such sheriffs in the performance of service required of them in connection with

insane persons either by a probate court or by law and a per diem for deputies and assistants necessarily required under such performance of such services shall be allowed and paid as provided by the law regulating the apprehension, examination, and commitment of insane persons.

All claims for livery hire shall state the purpose for which such livery was used and have attached thereto a receipt for the amount paid for such livery signed by the person of whom it was hired and if the sheriff uses his own team or automobile he shall be allowed therefor the same amount which would be charged reasonably by any other person for the use of such team or automobile under the same circumstances.

[1917 c. 312 s. 3] (920-3)

387.21 SALARY INCREASES. If any sheriff desires a higher salary than minimum salary, he shall make a showing to the county board of his county that such salary is inadequate as compensation for the services likely to be performed by such sheriff during the coming year, at any regular or special meeting of such county board, the county board may fix the amount of such salary in any just and reasonable sum. Such sum shall remain as the salary of such sheriff throughout his term, unless raised by further order of the board at a subsequent general or special meeting or on appeal.

Such sheriff, or citizens, may appeal from the fixing of the salary in the same way in which appeals may be taken from the allowance or disallowance by the county board, of claims presented to it for allowances as against the county. The appeal may be heard by the district court either in term or during vacation or at chambers upon eight days' notice of such hearing given to the county auditor; and the court, upon hearing such appeal, shall summarily determine the amount of salary to be paid any such sheriff during the remainder of his term of office unless the same be thereafter increased by the county board, as hereinbefore provided, and the order of the court fixing the salary shall be served by copy upon the county auditor forthwith.

[1917 c. 312 s. 4; 1933 c. 24 s. 3] (920-4)

387.22 JAILER DEPUTIES, COMPENSATION FIXED BY DISTRICT COURT. The provisions of sections 387.18 to 387.21 for the salaries of sheriffs shall not include the salaries or fees of jailers, matrons, deputies whose attendance is required at terms of court, the board of prisoners, nor the payment of any of the expenses specifically provided for in sections 387.18 to 387.23.

When there is any riot or impending violation of law and the sheriff shall be of opinion that other than the regular deputies are required he shall apply to the judge of the district court to determine upon and fix the compensation of such special deputies as the sheriff may name and appoint and such special deputies so named and appointed and the compensation of whom is fixed by the judge shall have all the powers assigned to him by the sheriff in such appointment. The appointment by the sheriffs and the fixing of their compensation shall be immediately certified by the sheriff to the clerk of the district court of his county and such certificate filed by such clerk and such special deputies shall be paid in the same manner as deputies in attendance upon terms of court.

[1917 c. 312 s. 5] (920-5)

387.23 SPECIAL DEPUTIES NOT PAID OUT OF COUNTY REVENUE FUND. For all services rendered by such sheriff or his deputies for which payment is not to be made out of the county revenue fund, he shall be allowed the fees and compensation fixed by law.

[1917 c. 312 s. 6] (920-6)

387.24 PAYMENT OF DEPUTY SHERIFF. Every sheriff of a county included in the counties classified in section 387.19 shall appoint a sufficient number of persons as deputy sheriffs in the manner provided by law, he may also appoint a deputy or deputies who shall have a salary if, upon the application to the judge of the district court, such judge deems such appointment necessary. If he so determines, he shall fix the salary of such deputy or deputies and such salary or salaries shall be payable as are other salaries provided for in sections 387.18 to 387.23.

[1917 c. 312 s. 7] (920-7)

387.25 SETTLEMENTS WITH COUNTY BOARD. The sheriff shall settle with and pay over to the county board at its regular sessions and as often as required all money collected or received by him for the use of or belonging to the county.

[R. L. s. 560] (921)

387.26 DEPUTIES ATTENDING COURT. The judge of the district court in each county, before the commencement of any general term, shall by order issued to the sheriff fix the number of deputies required during such term and direct the sheriff to furnish the same. The sheriff shall file this order with the clerk. Each such deputy shall receive such compensation as the judge shall determine, not exceeding \$5.00 per day, while attending such term of court.

[R. L. s. 561; 1941 c. 468] (922)

387.27 JAILERS, COMPENSATION. The judge of the district court shall from time to time determine the compensation to be allowed for the services of a jailer in each county in his district, which compensation shall be paid monthly out of the county treasury upon the warrant of the county auditor; such jailer to be appointed by the sheriff subject to the approval of the judge. When prisoners are committed to the jail from a county other than that in which the jail is situated such judge shall by order ratably apportion the amount to be paid by such county for jailer's fees. Upon the presentation of a certified copy of the order to the auditor of such county, he shall draw his warrant on the treasurer in favor of the jailer for the amount of such compensation.

[R. L. s. 562] (923)

387.28 [Repealed, 1947 c 457 s 3]

387.29 REIMBURSEMENT FOR PUBLIC USE OF HIS AUTOMOBILE. As reimbursement for use of his own private automobile by a sheriff or deputy, in the performance of his official duties, he may be paid by the county a sum not to exceed ten cents per mile for every mile so traveled.

[1947 c 88 s 1; 1949 c 499 s 1]