

CHAPTER 387

SHERIFF

387.01	Qualifications; bond; oath.	387.213	Sheriff's contingent fund for drug, alcohol, and DWI-related investigations.
387.02	Failure to qualify.	387.22	Riots; special deputies; compensation fixed by district court.
387.03	Powers, duties.	387.25	Settlements with county board.
387.04	Duties.	387.29	Motor vehicle.
387.05	Shall give certificate, when.	387.31	County civil service personnel system.
387.06	Failure to pay over money.	387.32	Resolution to establish system.
387.07	Neglect of duty.	387.33	Sheriff's civil service commission.
387.08	Criminal process, when filed.	387.34	Compensation of commissioners.
387.09	May not buy at sheriff's sale.	387.35	Duties of commissioners.
387.10	Powers after expiration of term.	387.36	Rules; personnel.
387.11	County jail.	387.37	Removal only upon charges.
387.12	May convey prisoners.	387.38	Grades, standards.
387.13	Prohibitions.	387.39	Examinations.
387.14	Deputies.	387.40	Charges, hearing.
387.145	Chief deputy; appointment.	387.41	Removal after hearing.
387.15	Temporary jury bailiffs.	387.42	Employees under civil service commission jurisdiction.
387.16	Charge of petit juries.	387.43	Discontinuance of civil service commission.
387.20	Salaries; appeals.	387.44	Application.
387.211	Uniform and equipment allowance.	387.45	Veterans Preference Law not affected.
387.212	Contingent fund.		

387.01 QUALIFICATIONS; BOND; OATH.

Every person who files as a candidate for county sheriff must be licensed as a peace officer in this state. Every person appointed to the office of sheriff must become licensed as a peace officer before entering upon the duties of the office. Before entering upon duties every sheriff 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 the sheriff will well and faithfully in all things perform and execute the duties of office, without fraud, deceit, or oppression, which bond, with an oath of office, shall be filed for record with the county recorder.

History: (905) *RL s 547; 1973 c 668 s 1; 1976 c 181 s 2; 1986 c 444; 1997 c 147 s 76*

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 election, it shall be deemed a refusal to serve.

History: (906) *RL s 548; 1986 c 444*

387.03 POWERS, DUTIES.

The sheriff shall keep and preserve the peace of the county, for which purpose the sheriff may require the aid of such persons or power of the county as the sheriff deems necessary. The sheriff shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority and to the sheriff delivered, attend upon the terms of the district court, and perform all of the duties pertaining to the office, including investigating recreational vehicle accidents involving personal injury or death that occur outside the boundaries of a municipality, searching and dragging for drowned bodies and searching and looking for lost persons. When authorized by the board of county commissioners of the county the sheriff may purchase boats and other equipment including the hiring of airplanes for search purposes.

History: (907) *RL s 549; 1943 c 330 s 1; 1951 c 302 s 1; 1986 c 444; 1993 c 184 s 7*

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 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 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.

History: (907-1) 1913 c 440 s 2; 1986 c 444

387.045 [Local]

387.05 SHALL GIVE CERTIFICATE, WHEN.

Every sheriff, if required, shall give without charge to any person delivering process or papers to the sheriff for service or execution a signed certificate specifying therein the names of the parties, the nature of the process or paper, and the day of such delivery.

History: (908) RL s 550; 1986 c 444

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 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 the sheriff may have collected or received by virtue of any execution, process, judgment, order, or decree, or in any other way by virtue of 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 the sheriff 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 percent 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.

History: (909) RL s 551; 1986 c 444

387.07 NEGLECT OF DUTY.

Any sheriff who shall neglect to make due return of any writ or other process or paper delivered to the sheriff to be executed or be guilty of any misconduct in relation to the execution thereof, 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 the sheriff's official bond.

History: (910) RL s 552; 1986 c 444

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 fees endorsed thereon, with the court administrator of such court.

History: (911) RL s 553; 1986 c 444; 1Sp1986 c 3 art 1 s 82

387.09 MAY NOT BUY AT SHERIFF'S SALE.

No sheriff shall become the purchaser either directly or indirectly of any property, real or personal, by the sheriff 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 the sheriff, shall be void.

History: (912) RL s 554; 1986 c 444

387.10 POWERS AFTER EXPIRATION OF TERM.

Every sheriff going out of office by expiration of a term may execute and return all writs, processes, and orders which shall then be on hand, and which the sheriff 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 receipt 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 the successor and the return of such succeeding sheriff upon any such process or order or sheriff's 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.

History: (913) *RL s 555; 1986 c 444*

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.

History: (914) *RL s 556*

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 the sheriff deemed necessary to convey such person to the place commanded by the process under which the arrest was made.

History: (915) *RL s 557; 1986 c 444*

387.13 PROHIBITIONS.

No sheriff, deputy sheriff, or coroner shall appear or practice as an attorney, solicitor, or counselor at law 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 be eligible to any other elective office. A sheriff, deputy sheriff, or coroner violating any of the provisions of this section is guilty of a petty misdemeanor.

History: (916) *RL s 558; 1973 c 123 art 5 s 7; 1981 c 163 s 2*

387.14 DEPUTIES.

The county board shall determine the number of permanent full time deputies and other employees and fix the compensation for each position. The county board shall also budget for special deputies, jailers, matrons, bailiffs and other temporary employees and shall fix their rates of compensation. The sheriff shall appoint in writing the deputies and other employees, for whose acts the sheriff shall be responsible and whom the sheriff may remove at pleasure. Before entering upon official duties, the oath and appointment of each shall be filed with the county recorder.

History: (917) *RL s 559; 1969 c 1151 s 1; 1976 c 181 s 2; 1986 c 444*

387.145 CHIEF DEPUTY; APPOINTMENT.

Notwithstanding the provision of any law to the contrary, the sheriff of any county may appoint a chief deputy or first assistant with the approval of the county board.

History: 1980 c 519 s 4; 1989 c 254 s 2

387.15 TEMPORARY JURY BAILIFFS.

If the sex of any juror is different from the sex of all available jury bailiffs, the presiding judge of any district court at any time before the return of a verdict by a petit jury 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 person of the juror's sex who is a 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 duties, the person so appointed shall take and subscribe the oath by law required of deputy sheriffs and file the same with the court administrator.

History: (918) 1921 c 369 s 1; 1Sp1986 c 3 art 1 s 82; 1987 c 49 s 11

387.16 CHARGE OF PETIT JURIES.

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 a deputy sheriff or bailiff of the other sex performing such duty. 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.

History: (919) 1921 c 369 s 2; 1987 c 49 s 12

387.17 [Repealed, 1969 c 1151 s 9]

387.18 [Repealed, 1969 c 1151 s 9]

387.19 [Repealed, 1969 c 1151 s 9]

387.20 SALARIES; APPEALS.

Subdivision 1. **Counties under 75,000.** The sheriffs of all counties of the state with less than 75,000 inhabitants according to the 1960 federal census shall receive yearly salaries for all services rendered by them for their respective counties, not less than the following amounts according to the then last preceding federal census:

- (a) In counties with less than 10,000 inhabitants, \$6,000;
- (b) In counties with 10,000 but less than 20,000 inhabitants, \$6,500;
- (c) In counties with 20,000 but less than 30,000 inhabitants, \$7,000;
- (d) In counties with 30,000 but less than 40,000 inhabitants, \$7,500;
- (e) In counties with 40,000 or more inhabitants, \$8,000.

In addition to such salary each sheriff shall be reimbursed for all expenses incurred in the performance of official duties for the sheriff's county and the 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 district 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; provided that any sheriff or deputy receiving an annual salary shall pay over any per diem received to the county in the manner and at the time prescribed by the county board, but not less often than once each month.

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.

A county may pay a sheriff or deputy as compensation for the use of a personal automobile in the performance of official duties a mileage allowance prescribed by the county board or a monthly or other periodic allowance in lieu of mileage. The allowance for automobile use is not subject to limits set by other law.

Subd. 2. **Board procedure, details.** The county board of each of the counties specified in this section annually shall set by resolution the salary of the county sheriff which shall be paid to the county sheriff at such intervals as the board shall determine, but not less often than once each month. At the January meeting prior to the first date

on which applicants may file for the office of county sheriff the board shall set by resolution the minimum salary to be paid the county sheriff for the term next following. In the event a vacancy occurs in the office of county sheriff, the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year. The board in any case specified in this subdivision may not set the annual salary at an amount less than the minimum provided in this subdivision, but it may set the salary in excess of such minimums. The salary of the county sheriff shall not be reduced during the term for which the sheriff was elected or appointed.

Subd. 3. [Repealed, 1975 c 301 s 16]

Subd. 4. **Other maximums, minimums.** This section shall not be construed as repealing any existing law which provides for a higher minimum salary in any county than the amount provided in subdivision 1, but shall be deemed to supersede the provisions of any act setting a maximum salary for the county sheriff in any of the counties specified in subdivision 1.

Subd. 5. **Fees, expenses, per diems.** The county sheriff shall charge and collect all fees and per diems prescribed by law and may require such fees and per diems to be paid before performing the services for which they are charged. The sheriff shall pay all such fees and per diems to the county in the manner and at the times prescribed by the county board, but not less often than once each month. The sheriff shall not retain any additional compensation or other emolument for services in any activity of county government. For purposes of this subdivision, (1) the expenses of the sheriff incurred in the performance of official duties for the county, (2) uniform allowances, (3) mileage and travel allowances, except as the board shall have furnished motor vehicles pursuant to Minnesota Statutes 1961, section 387.29, (4) living quarters provided by the county, and (5) payments for boarding prisoners, shall not be deemed an emolument of the office.

Subd. 6. **Budget.** The county board by resolution shall provide the budget for (1) the salaries of deputies, jailers, matrons, bailiffs, clerks and other employees in the office of the sheriff; (2) other expenses necessary in the performance of the duties of said office, including the reimbursement of the sheriff or a designee for necessary and reasonable expenses incurred in furnishing board, laundry and other services to prisoners in the county jail, provided that the county board may at its option provide for the furnishing of these services to the prisoners. (3) the payment of premiums of any bonds or license fees required of the sheriff or any deputy or other employee in said office and (4) mileage allowances prescribed by the board and the board is authorized to appropriate funds therefor and for the salary of the sheriff.

Subd. 7. **Appeal on salary, budget.** The sheriff, if dissatisfied with the action of the county board in setting the amount of the sheriff's salary or the amount of the budget for the office of sheriff, may appeal to the district court on the grounds that the determination of the county board in setting such salary or budget was arbitrary, capricious, oppressive or without sufficiently taking into account the extent of the responsibilities and duties of said office, and the sheriff's experience, qualifications, and performance. The appeal shall be taken within 15 days after the date of the resolution setting such salary or budget by serving a notice of appeal on the county auditor and filing same with the court administrator of the district court. The court either in term or vacation and upon ten days' notice to the chair of the board shall hear such appeal. On the hearing of the appeal the court shall review the decision or resolution of the board in a hearing de novo and may hear new or additional evidence, or the court may order the officer appealing and the board to submit briefs or other memoranda and may dispose of the appeal on such writings. If the court shall find that the board acted in an arbitrary, capricious, oppressive or unreasonable manner or without sufficiently taking into account the extent of the responsibilities and duties of the office of the sheriff, the sheriff's experience, qualifications, and performance, it shall make such order to take the place of the order appealed from as is justified by the record and shall remand the matter to the county board for further action consistent with the

court's findings. After determination of the appeal the county board shall proceed in conformity therewith.

Subd. 8. **Time of effect.** The provisions of subdivisions 1 to 7 shall take effect in the respective counties specified in subdivisions 1 to 7 as follows: (1) Upon the expiration of the term of the incumbent holding the office on July 1, 1965, or (2) upon the occurrence prior thereto of a vacancy in the office of county sheriff, or (3) subsequent to July 1, 1965, and upon not less than 30 days' written notice by the sheriff, the county board shall make the provisions of subdivisions 1 to 7 effective on the first day of the month following the expiration of the notice period.

Subd. 9. **Inconsistent law superseded.** All laws relating to the salary, fees, and deputies and clerk hire for the county sheriff inconsistent herewith are superseded.

History: 1917 c 312 s 1; 1957 c 492 s 1; 1965 c 840 s 1-3; 1969 c 1151 s 2,3; 1973 c 156 s 1; 1975 c 94 s 1,2; 1976 c 88 s 1; 1980 c 519 s 2,3; 1985 c 281 s 10; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1995 c 189 s 8; 1996 c 277 s 1

387.21 [Repealed, 1969 c 1151 s 9]

387.211 UNIFORM AND EQUIPMENT ALLOWANCE.

An allowance for the purchase and maintenance of uniforms and equipment for sheriffs and full time deputy sheriffs may be allowed in each county in such amounts and at such times as the board of county commissioners may set.

History: 1959 c 414 s 1

387.212 CONTINGENT FUND.

The board of county commissioners in any county may create a sheriff's contingent fund and may credit thereto not more than \$10,000. The money in such fund may be used for the advancement and reimbursement of expenses of the sheriff and the sheriff's office. Such money shall be disbursed by the county treasurer in accordance with rules and regulations prescribed by the board. Any balance remaining at the end of the year shall be transferred to the revenue fund.

History: 1967 c 197 s 1; 1985 c 82 s 1; 1986 c 444; 1988 c 665 s 4; 1988 c 719 art 19 s 21

387.213 SHERIFF'S CONTINGENT FUND FOR DRUG, ALCOHOL, AND DWI-RELATED INVESTIGATIONS.

A sheriff's contingent fund is created in each county to be kept by the county treasurer as all other county funds. One-fourth of all money paid into the county treasury on account of fines imposed for violation of the provisions of chapter 152 or 340A shall be credited to this contingent fund. The sheriff may expend money from this fund for the purpose of investigating and securing evidence of violations of chapters 152, 340A, and the DWI-related provisions of chapter 169A. Money may be withdrawn from the fund by the sheriff upon the order of the district court after application. At the close of the fiscal year any money in the fund in excess of \$5,000 shall be transferred into the general fund.

History: 1986 c 435 s 4; 1999 c 49 s 1; 2000 c 478 art 2 s 7

387.22 RIOTS; SPECIAL DEPUTIES; COMPENSATION FIXED BY DISTRICT COURT.

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 the sheriff 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 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 court administrator of the district court of the county and such certificate filed by such

court administrator and such special deputies shall be paid in the same manner as deputies in attendance upon terms of court.

History: (920-5) 1917 c 312 s 5; 1969 c 1151 s 4; 1986 c 444; 1Sp1986 c 3 art 1 s 82

387.23 [Repealed, 1969 c 1151 s 9]

387.24 [Repealed, 1969 c 1151 s 9]

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 for the use of or belonging to the county.

History: (921) RL s 560; 1986 c 444

387.26 [Repealed, 1969 c 1151 s 9]

387.27 [Repealed, 1969 c 1151 s 9]

387.28 [Repealed, 1947 c 457 s 3]

387.29 MOTOR VEHICLE.

Subdivision 1. [Repealed, 1973 c 661 s 4]

Subd. 2. **Motor vehicles furnished.** The board of county commissioners, by resolution, may furnish to the sheriff of the county such necessary motor vehicles and supplies therefor as are needed to carry out the duties of office.

Subd. 3. [Repealed, 1973 c 661 s 4]

History: 1947 c 88 s 1; 1949 c 499 s 1; 1961 c 194 s 1; 1971 c 29 s 1; 1973 c 661 s 3; 1986 c 444

387.31 COUNTY CIVIL SERVICE PERSONNEL SYSTEM.

In any county of this state a civil service personnel system may be established in the sheriff's department.

History: 1957 c 325 s 1; 1969 c 1099 s 1

387.32 RESOLUTION TO ESTABLISH SYSTEM.

Subdivision 1. **Adoption, filing.** To establish such system the board of county commissioners of such county may adopt a resolution and file a certified copy in the office of the county auditor.

Subd. 2. **Established on filing.** Upon filing of such resolution the civil service personnel system in the sheriff's office of such county is established.

History: 1957 c 325 s 2,3

387.33 SHERIFF'S CIVIL SERVICE COMMISSION.

Subdivision 1. **Timing of appointments.** After filing of their resolution the board of county commissioners shall at their next regular meeting appoint a commission to be designated as the sheriff's civil service commission.

Subd. 2. **Members; qualifications, conditions.** The commission shall consist of three members who shall be citizens of the state and residents of the county, and shall be appointed by the chair of the county board, and the appointment of each commissioner, to be confirmed by majority vote of the county board. When first created one commissioner shall be appointed for one year, who shall be president of the commission, one for the term of two years, and one for the term of three years, and all commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of appointment or while serving, hold any other office or employment under said county, any city, the United States, the state of Minnesota, or any public corporation or political division thereof, other than the office

of notary public. Each commissioner, before entering upon duties, shall subscribe and file with the county recorder of said county an oath for the faithful discharge of duties. There shall be appointed each year thereafter, in the manner of the original appointments, one member of the commission whose term of office shall be for three years, and each member of the commission shall be president of the commission during the last year of the term for which appointed.

Subd. 3. **Meetings, officers, rules.** The commission shall meet as soon as possible after its appointment and thereafter on the first Monday in February each year at which meetings it shall select from its members a secretary who shall serve until a successor is elected.

The commission shall fix the times of its other meetings, and adopt, amend, and alter rules for its procedure.

History: 1957 c 325 s 4-6; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1986 c 444

387.34 COMPENSATION OF COMMISSIONERS.

Each commissioner shall serve without pay, but the county board shall allow the secretary such compensation, not exceeding \$200 per year, as it shall deem necessary and commensurate with the additional services rendered. The commission shall annually submit a budget to the board of county commissioners for approval, modification or rejection. The county shall pay all necessary expenses incurred by the commission within the budget and in the same manner as other county obligations are disbursed, from the general revenue.

History: 1957 c 325 s 7; 1986 c 444

387.35 DUTIES OF COMMISSIONERS.

Subdivision 1. **Positions classified; incumbents, service register.** The commission shall have supervision over the employment, promotion, discharge, and suspension of all deputies and employees in the sheriff's department, except special deputies with no salary.

The commission shall, immediately after its appointment and organization, grade and classify all positions and also all present employees of the sheriff's department; and any deputy regularly employed at the time of creation of the civil service commission shall come under the jurisdiction of the commission without examination, and shall not be classified in a position with lower pay scale than said deputy is then receiving.

The commission shall prepare a service register, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful, in order to better ascertain the standing of each deputy and employee for the purpose of promotions.

The commission shall act in no more than an advisory capacity regarding salaries in the sheriff's department, and sections 387.31 to 387.45 shall in no way change the manner of fixing salaries of deputies.

Subd. 2. **Application register.** The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses, in the order of the date of application, of all applicants for examination and the positions or employment they seek. All applications shall be upon forms prescribed by the commission and contain such data and information as the commission deems necessary and useful.

History: 1957 c 325 s 8,9

387.36 RULES; PERSONNEL.

(a) The commission shall adopt rules to promote efficiency in the sheriff's department and to carry out the purposes of sections 387.31 to 387.45.

(b) The rules must provide among other things for:

- (1) the classification of all positions and employees in the sheriff's department;
 - (2) public competitive examinations to test the relative fitness of applicants;
 - (3) public advertisements of all examinations at least ten days in advance in a newspaper of general circulation in the county and posting the advertisement for ten days in the county courthouse;
 - (4) the creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination, which must be included in an eligible register;
 - (5) the removal of any name from the eligible register after it has been on the register for two years;
 - (6) the rejection of candidates or eligibles who, after the entry of their names, fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition, or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception, or fraud in connection with their application for employment;
 - (7) the certification of the three names standing highest on the appropriate list to fill any vacancy, or any position within the sheriff's department, to which the sheriff may choose one of the three in procedure according to law;
 - (8) temporary employment without examination, with the consent in each case of the commission; in cases of emergency but no such temporary employment may continue more than 30 days nor may successive temporary employments be permitted for the same position; provided, that whenever there are no names upon the eligible register, for particular positions, temporary appointment may be made for employment to continue until the position is filled by a candidate from the eligible register under provisions of the rules, provided that persons on the eligible list at the time of induction or enlistment during state of war or emergency into the armed forces of the United States must retain their position on the eligible register;
 - (9) promotion based on competitive examination and upon records of efficiency, character, conduct and seniority, with appropriate credit given to members of the sheriff's department who are candidates in promotional examinations or examinations for a higher position;
 - (10) suspension for cause with or without pay for not longer than 60 days and for leave of absence, with or without pay; and
 - (11) other rules not inconsistent with the provisions of this chapter as may, from time to time, be found necessary to secure the purposes of sections 387.31 to 387.45.
- (c) When a disparity exists between the make-up of the sheriff's department and its approved affirmative action goals, the commission may certify up to two eligible candidates from each protected group for which a disparity exists. This certification is in addition to the three candidates certified under paragraph (b), clause (7). This expanded certification must not include a member of a protected group if a member of that group is one of the three candidates certified under paragraph (b), clause (7). A certification under this paragraph must be made from the list of eligible candidates who have successfully completed the examination, in order of their standing in the examination. This expanded certification applies only to positions to be filled from the public and does not apply to promotional appointments.
- (d) Copies of the rules must be kept posted in a conspicuous place in the sheriff's main office.

History: 1957 c 325 s 10; 1986 c 444; 1993 c 15 s 1

387.37 REMOVAL ONLY UPON CHARGES.

No deputy sheriff or employee after continuous employment of one year shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in defense of the charges as in sections 387.31 to 387.45 hereinafter provided. Such charges shall be investigated by or before such civil service commission.

The finding and decision of such commission shall be forthwith certified to the sheriff, to be forthwith enforced.

Nothing in sections 387.31 to 387.45 shall limit the power of the sheriff, or the superior officer in the sheriff's absence, to suspend a subordinate for a reasonable period not exceeding 30 days for the purpose of discipline, or pending investigation of charges when it appears such suspension is advisable.

History: 1957 c 325 s 11; 1969 c 218 s 1; 1986 c 444

387.38 GRADES, STANDARDS.

The commission shall ascertain the duties of each position, and employment in the sheriff's department of said county, and designate by rule as well as may be practicable the grade of each position. The commission shall prescribe standards of fitness and efficiency for each position and for each grade, and adapt its examinations thereto.

History: 1957 c 325 s 12

387.39 EXAMINATIONS.

Subdivision 1. **Described; examiners.** All examinations shall be impartial, fair, and practical, designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question on the examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety, and integrity, and all applicants for position requiring special experience, skill, or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the sheriff and of any employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners.

Subd. 2. **Notice; eligible register; limit, transfer.** Notice of the time, place and scope of each examination shall be given by publication and posting as specified in section 387.36, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examination, after giving credit for character and previous successful experience, shall be entered with their address and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application, and if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made, the names selected shall be stricken from the eligible register and transferred to the service register.

History: 1957 c 325 s 13,14

387.40 CHARGES, HEARING.

Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of the member's own motion, and thereupon the commission shall try the charges after no less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of these charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require the person to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for

attendance upon the district court, except that any officer, agent or employee of the county who receives compensation for services, shall not be entitled to fees.

History: 1957 c 325 s 15; 1986 c 444

387.41 REMOVAL AFTER HEARING.

If, after investigation and trial by civil service commission, an employee who is found guilty of inefficiency, breach of duty, or misconduct, may be removed, reduced, or suspended and the employee's name may be stricken from the service register. If the board determines that the charges are not sustained, the accused, if suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings, determinations, and orders of the commission for suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of the hearing with the secretary of the commission. The secretary shall notify the employee of the decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal in accordance with chapter 14.

The question to be determined by the court shall be:

"Upon the evidence, was the order of the commission reasonable?"

Whenever the sheriff or county attorney deems the civil service commissioners, or any one of them, to be failing their duties as outlined in sections 387.31 to 387.45, the sheriff or county attorney, shall request the county board to hold a hearing regarding the matter. The county board shall then determine this question: "Is the sheriff's civil service commission or any member thereof failing in the duties prescribed by sections 387.31 to 387.45?" Upon an affirmative finding by resolution, the commission or member shall be deemed removed. The county board shall fill the vacancy by appointment for the balance of the term.

An applicant for examination, appointment or promotion in the sheriff's department of the county who shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other thing to any person, for or on account of or in connection with the examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal.

Any officer or employee of the sheriff's department, when operating under civil service in accordance with the provisions of this chapter, who participates in any manner in activities in support of any candidate or party, directly or indirectly solicits, receives, or pays, or participates in any manner in soliciting, receiving, or paying any assessment, subscription or contribution for any candidate, party or political purpose, is guilty of a misdemeanor and shall be subject to suspension or removal.

History: 1957 c 325 s 16; 1983 c 247 s 148; 1986 c 444

387.42 EMPLOYEES UNDER CIVIL SERVICE COMMISSION JURISDICTION.

Any deputy sheriff regularly employed on a full time basis at the time of the creation of the civil service commission shall automatically come under the jurisdiction of the civil service commission, consistent with duties of the commission as outlined in sections 387.31 to 387.45.

History: 1957 c 325 s 17

387.43 DISCONTINUANCE OF CIVIL SERVICE COMMISSION.

Subdivision 1. Any sheriff's civil service commission created, pursuant to the provisions of sections 387.31 to 387.45, may be discontinued and abolished by either of the following methods: by a resolution adopted by the county board on a unanimous vote a certified copy of which shall be filed in the office of the county auditor, or upon obtaining the approval of a majority of the electors voting on the question of abolishing the civil service system. The election shall be initiated by resolution adopted by a majority vote of the county board or by a petition signed by ten percent of the number

of legal voters voting at the last general county election. The resolution or petition shall be filed with the county auditor.

Subd. 2. When a proper resolution or petition according to the preceding subdivision has been filed in the office of the county auditor, the auditor shall submit the question to the voters of the county at the next following special or general county election occurring at least 30 days from such filing of such petition. The question on the ballot shall be stated substantially as follows:

“Shall the sheriff’s civil service commission be abolished?”

History: 1957 c 325 s 18,19; 1969 c 1099 s 2; 1986 c 444

387.44 APPLICATION.

Sections 387.31 to 387.45 shall not apply and shall have no force or effect upon any county until the requirements and procedure for creation of a sheriff’s civil service commission as herein outlined have been complied with.

History: 1957 c 325 s 20

387.45 VETERANS PREFERENCE LAW NOT AFFECTED.

Sections 387.31 to 387.45 do not exclude or modify the application of sections 197.455 and 197.46, known as the Veterans Preference Law.

History: 1957 c 325 s 21; 1980 c 509 s 146