

**PART 4
COUNTY SHERIFF'S CIVIL SERVICE LAW**

8-8-401. Short title.

This part shall be known as the "County Sheriff's Civil Service Law of 1974."

[Acts 1974, ch. 751, § 1; T.C.A., § 8-840.]

8-8-402. Local approval required.

This part shall be local in effect and shall become effective in a particular county upon the contingency of a two-thirds (2/3) vote of the county legislative body approving this law.

[Acts 1974, ch. 751, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 8-841.]

8-8-403. "Classified service" defined.

As used in this part, "classified service" includes all positions and employees in the sheriff's department, except for the sheriff, the sheriff's personal secretary, and the cook for the jail facility, and, in those counties deciding to do so, the chief deputy sheriff.

[Acts 1974, ch. 751, § 3; T.C.A., § 8-842.]

8-8-404. Creation of civil service board.

There is created a civil service board composed of three (3) members selected by the county legislative body.

[Acts 1974, ch. 751, § 4; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 8-843.]

8-8-405. Terms of members.

The terms of the members of the board shall be three (3) years; provided, that the initial appointments shall be as follows:

- (1) One (1) member selected by the county legislative body for one (1) year;
 - (2) One (1) member selected by the county legislative body for two (2) years; and
 - (3) One (1) member selected by the county legislative body for three (3) years.
- [Acts 1974, ch. 751, § 5; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 8-844.]

8-8-406. Qualifications of members.

All members of the board shall be over eighteen (18) years of age, of good moral character, citizens of the United States and the state of Tennessee, and must reside in the respective county, and they shall not hold any elected or appointed office within the county.

[Acts 1974, ch. 751, § 6; T.C.A., § 8-845.]

8-8-407. Compensation of board.

The members of the board shall receive such salary, if any, as determined by the county legislative body in its sound discretion.

[Acts 1974, ch. 751, § 7; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 8-846.]

8-8-408. Chair - Personnel officer as keeper of department records and secretary of board.

The county executive shall designate, from the three (3) members thus selected, a chair of the board. The sheriff shall appoint from among the sheriff's employees a personnel officer, who shall be the keeper of the sheriff's departmental records, and also shall serve as secretary of the civil service board.

[Acts 1974, ch. 751, § 8; T.C.A., § 8-847.]

8-8-409. Powers and duties of board.

The board as a body shall:

- (1) Adopt and amend rules and regulations for the administration of this part;
- (2) Make investigations concerning the enforcement and effect of this part and require observance of the rules and regulations made thereunder;
- (3) Hear and determine appeals and complaints respecting the administration of this part;
- (4) Establish and maintain a roster of all employees of the classified service and the office of the sheriff showing their position, rank, compensation and place of residence;
- (5) Ascertain and record the duties and responsibilities pertaining to all positions in the classified service and classify such positions in the manner hereinafter provided;
- (6) Except as otherwise provided in this part, formulate and hold competitive tests to determine the qualifications of persons who seek employment in any position, and as a result of such tests, establish employment lists of eligibles for the various positions;
- (7) Establish records of performance and a system of service ratings to be used to determine promotions, the order of layoffs and reemployment and for other purposes;
- (8) Keep any other such records as may be necessary for the proper administration of this part; and
- (9) Determine all fringe benefits to employees coming under the provisions of this part.

[Acts 1974, ch. 751, §§ 9, 14; T.C.A., § 8-848.]

8-8-410. Preliminary or performance tests required - Exceptions.

(a) All persons in the employ of the office of the sheriff or classified service positions at the time this part becomes operative, who have served for a period longer than six (6) months, shall be retained without preliminary or performance tests, but shall thereafter be subject in all other respects to the provisions of this part. Any other persons in the classified service at the time this part becomes operative shall be regarded as holding their positions under provisional appointment.

(b) Upon the expiration of a contract by a private contractor to operate a detention facility for a county which has adopted the provisions of this part, the county sheriff's department may assume responsibility of the operation of such facility and may accept the transfer of any or all employees of the private contractor at the facility to employment by the sheriff's department. At the request of the sheriff to the county legislative body and upon a two-thirds (2/3) vote of the county legislative body, those transferring employees with a period of employment longer than six (6) months at the facility prior to transfer shall be retained without preliminary or performance tests, but shall thereafter be subject in all other respects to the provisions of this part.

[Acts 1974, ch. 751, § 10; T.C.A., § 8-849; Acts 1991, ch. 367, § 1.]

8-8-411. Classification plan.

The board shall, as soon as practical after this part becomes operative, adopt a classification plan and make rules for its administration. The position classification plan may, if desired, create different classes of positions within each position in the classified service. The position classification plan shall show the duties, authorities, responsibilities and character of work required of each position and each class thereof. The board shall determine the requirements of each position and class thereof as to education, experience, capabilities, knowledge and skill. As far as practical, the probable lines of promotion to and from the classes of positions shall be indicated.

[Acts 1974, ch. 751, § 11; T.C.A., § 8-850.]

8-8-412. Creation of new positions - Abolition of old positions.

The board may, upon request of and by the advice of the sheriff, create new positions or combine, alter or abolish existing positions in such manner as the board acting under the advice of the sheriff deems necessary for the effective operation of the office of sheriff. No position in the classified service shall be abolished except upon approval of the board acting in good faith upon the advice of the sheriff.

[Acts 1974, ch. 751, § 12; T.C.A., § 8-851.]

8-8-413. Leaves of absence.

(a) The board shall formulate reasonable rules governing the granting of leaves of absence to members of the classified service in good standing. The board shall seek the advice of the sheriff upon any request for leave of absence before acting thereon and shall be guided by the requirements of adequate law

enforcement and the operational efficiency of the office of sheriff when considering any such request for a leave.

(b) Any persons coming under the classified service who shall hereafter be inducted into the armed forces of the United States, or who shall hereafter enter the service voluntarily in a time of war or other national emergency, shall, upon application of the sheriff, receive a military leave of absence for the duration of the period of service required. The employee shall retain all rights or seniority and shall be entitled to re-employment in the same capacity and position held at the time of entering military service; however, an application for reinstatement in such position must be made by or on behalf of such employee within three (3) months after termination of active service in the armed forces.

[Acts 1974, ch. 751, § 13; T.C.A., § 8-852.]

8-8-414. Eligibility lists - Eligibility and promotion tests.

(a) The sheriff shall keep the board informed by periodic reports of the employment needs of the office.

(b) (1) The board shall, as often as necessary, hold tests to establish lists of persons eligible for the various positions in the classified service.

(2) Such tests shall be public, competitive and open to all persons who may be lawfully appointed under the rules promulgated by the board and existing prior to the announcement of the examination. Such rules may set limitations as to residence, age, health, habits, moral character and other necessary prerequisites for the performance of the duties of the position for which examination is designated.

(c) Promotion tests shall be public, competitive and free to all persons examined and appointed under the provisions of this part who have held a position for at least one (1) year.

(d) All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of the person examined to perform the duties of the position in which the appointment is to be made. Tests may include examination for physical fitness and manual skill. No question in any test shall relate to religious or political opinions or affiliation.

(e) The eligibles shall take rank upon a list which shall be compiled for each position, in the order of their relative excellence as determined by the tests and without reference to when the tests were given. No lists of eligibles shall be valid after one (1) year; however, the civil service board may extend an eligible period for not more than one (1) additional year.

(f) Notice of the time, place and general scope of each test, and the duties, pay and experience required for all positions for which the test is to be held, shall be given by the board to each applicant at least one (1) week preceding the test. The notice must be in writing and addressed to the last known address supplied by the applicant. Notice of promotional tests shall be given as the board may prescribe.

[Acts 1974, ch. 751, § 14; T.C.A., § 8-853.]

8-8-415. Filling of vacancies - Probationary period.

(a) Whenever a vacancy occurs in any position in the classified section of the office of sheriff, the sheriff shall ask the board for the names and addresses of all eligible persons. The board shall certify the names of all persons on the eligible list for that position within thirty (30) days of the sheriff's request. The sheriff shall investigate each of the five (5) highest on the list of eligibles. If none of the five (5) eligibles are acceptable to the sheriff, the sheriff shall investigate the next five (5) eligibles on the list, one (1) after another until one (1) of the eligibles investigated is acceptable. The sheriff shall appoint this person to the position and notify the board of such action. If the civil service board fails to provide a list, then the sheriff may make appointments to vacancies after having notified the board of an intention to do so.

(b) No appointment or promotion for any position in the classified service shall be deemed complete until after the expiration of six (6) months' probationary service, during which time the sheriff may determine the effectiveness of the employee and if, in the sheriff's judgment, the employee does not meet the standards the sheriff may terminate the employment of that person.

(c) Whenever a position of the classified service is filled by promotion, and the services of the person promoted are terminated by the sheriff during the probationary period, such person shall be returned to such person's former position in the classified service unless such person's conduct during the probationary period has given grounds for dismissal for cause under this part.

(d) Any person dismissed during the probationary period shall not be eligible for a hearing before the board.

(e) A person certified to the sheriff who does not report for duty at the time so designated and who does not explain in writing within five (5) days such failure to report, may be rejected by the sheriff, who shall notify the board of the action taken and the reason for it. The person's name will then be stricken from the eligible list.

[Acts 1974, ch. 751, § 15; T.C.A., § 8-854.]

8-8-416. Transfer of positions.

Employees in the classified service may be transferred from one position to another in the same class. Transfers may be instituted only by the sheriff and shall be permitted only with the consent of the sheriff.

[Acts 1974, ch. 751, § 16; T.C.A., § 8-855.]

8-8-417. Procedural rules to be established - Power to gather evidence.

(a) The practice and procedure of the board with respect to any investigation by the board authorized by this part shall be in accordance with the rules and regulations to be established by the board. The rules shall provide for reasonable notice to all persons affected and for the opportunity to be heard, either in person or as represented by counsel, and to introduce testimony in their behalf at a public hearing.

(b) The board, when conducting any investigations or hearings authorized by this part, shall have the power to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. If any person fails to comply with the orders of the board or of a subpoena issued by the board or any of its members, or if a witness refuses to testify on any matter on which the witness may be lawfully interrogated, the judge in any court of record within the county, on application of any member of the board, shall compel obedience by proceedings as for contempt. The sheriff or the sheriff's legal deputy shall serve such subpoenas as issued by the board.

[Acts 1974, ch. 751, § 17; T.C.A., § 8-856.]

8-8-418. Report of changes in status required - Suspensions authorized - Hearings.

(a) The sheriff shall give an immediate report in writing of all appointments, reinstatements, vacancies, absences or other matters affecting the status of any member of the classified service or the performance of the duties of members of the classified service. The report shall be in the manner and form prescribed by the board.

(b) The sheriff may suspend any employee for not more than ten (10) days for cause, and there shall be no right of appeal for such suspension. The sheriff does not have the authority to suspend any employee for more than one (1) suspension of ten (10) days within any given six (6) month period of time without a right of appeal.

(c) If the sheriff suspends any employee for a period longer than ten (10) days, the suspended employee shall be notified in writing of the charges. The suspended employee shall thereafter have ten (10) days to request a hearing before the civil service board. Upon receiving the request, the board shall set a hearing, not more than thirty (30) days from the date of the receipt of the request.

[Acts 1974, ch. 751, § 18; T.C.A., § 8-857.]

8-8-419. Political activity restricted.

(a) No person holding a position in the classified service shall take an active part in any political campaign while on duty, nor under any circumstances shall any employee of the sheriff's department solicit money for political campaigns. A deputy sheriff shall not use such position to reflect the deputy sheriff's personal political feelings as those of the sheriff's department or to exert any pressure on anyone to influence that person's political views. No employee while on duty, nor any officer while in uniform, shall display any political advertising or paraphernalia on such person's body or automobile. No employee of the sheriff's office shall make any public endorsement of any candidate in any campaign for elected office.

(b) However, nothing in this part shall be construed to prohibit or prevent any such employee from becoming or continuing to be a member of a political club or organization and enjoying all the rights and privileges of such membership or from attending any political meetings, while not on duty. Such employee shall not be denied freedom in the casting of a vote.

(c) Any person violating the provisions of this section shall be dismissed from the service of the office of the sheriff.

[Acts 1974, ch. 751, § 19; T.C.A., § 8-858.]