

HOUSE BILL 1385

By Eldridge

AN ACT to amend Chapter 54 of the Private Acts of 1983; as amended by Chapter 185 of the Private Acts of 1986; Chapter 107 of the Private Acts of 1991; Chapter 27 of the Private Acts of 1991; Chapter 152 of the Private Acts of 1994 and Chapter 42 of the Private Acts of 1995; and any other acts amendatory thereto, relative to the Madison County Sheriff Department's Civil Service Commission.

WHEREAS, Chapter 54 of the Private Acts of 1983, and any other acts amendatory thereto, established a Civil Service Commission in Madison County, Tennessee; and

WHEREAS, the county legislative body of Madison County desires to replace the current Civil Service Commission system and in its place establish a new Civil Service Commission; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 54 of the Private Acts of 1983, as amended by Chapter 185 of the Private Acts of 1986; Chapter 107 of the Private Acts of 1991; Chapter 27 of the Private Acts of 1991; Chapter 152 of the Private Acts of 1994 and Chapter 42 of the Private Acts of 1995; and any other acts amendatory thereto, is deleted in its entirety and replaced with the following language:

Section 1. This act shall be known as the "Madison County Sheriff's Civil Service Law of 2015."

Section 2. Classified Service.

For purposes of this act, "classified service" includes all full-time employees in the Madison County Sheriff's Department, except for: the sheriff; the sheriff's personal assistant; the chief deputy sheriff; each assistant chief

deputy sheriff; each major; each colonel; each inspector; and each employee who holds a rank higher than the rank of captain.

Section 3. Civil Service Board.

There is created a Civil Service Board composed of three (3) members, two (2) of whom shall be selected by the Madison County legislative body and one (1) of whom shall be selected by majority vote of the members of the Madison County Deputy Sheriff's Association.

Section 4. Terms.

The terms of members of the Civil Service Board shall be three (3) years; provided, that the initial appointments shall be as follows: one (1) member selected by the Madison County legislative body for one (1) year; one (1) member selected by the Madison County legislative body for two (2) years; and one (1) member selected by the Madison County Deputy Sheriff's Association for three (3) years.

Section 5. Civil Service Board Standards.

Each member of the Civil Service Board shall be over thirty (30) years of age, of good moral character, a citizen of the United States, and a resident of Tennessee, shall be a resident of Madison County, and shall have been a resident of Madison County for at least five (5) years, and each member shall not hold any other elected or appointed office within Madison County, nor be employed by Madison County. Each member shall have equal power, and a majority vote of the members is necessary to authorize any commission action or decision. No member shall be a member of the immediate family of any employee of the department. Any vacancy on the Civil Service Board shall immediately be filled for the remainder of the unexpired term in the same manner as the position was originally filled.

Section 6. Civil Service Board Salary.

The members of the Civil Service Board shall receive a salary, if any, as determined by the Madison County legislative body in its sound discretion.

Section 7. Civil Service Board Administration.

The county mayor shall designate, from the three (3) members thus selected, a chair of the Civil Service 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 shall serve as secretary of the Civil Service Board.

Section 8. Duties and Responsibilities of Civil Service Board.

The Civil Service Board as a body shall:

- (a) Conduct hearings and establish just cause in appeals of:
 - (1) Suspensions that exceed the maximum allowable limit;
 - (2) Demotions; and
 - (3) Terminations of the classified employees as defined in this act; provided, the employee is off the established probationary period.

(b) Upon request made to the sheriff's office, be provided a roster of all employees of the classified service and the office of the sheriff showing their position, rank, compensation, and county of residence.

Section 9. Grandfathered Employees.

All persons in the employ of the office of the sheriff or classified service positions at the time this act becomes operative shall be retained without preliminary or performance tests, but shall thereafter be subject in all other respects to the provisions of this act. Any other persons in the classified service at the time this act becomes operative shall be regarded as holding their positions under provisional appointment.

Section 10. Classification Plan.

The Madison County Sheriff's Office shall, as soon as practical after this act 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 Madison County Sheriff's Office 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.

Section 11. Abolishing Positions.

If a classified position is abolished, the classified employee shall be reassigned to another classified position in the same class.

Section 12. Civil Service Exam and Promotion Test.

(a) The Madison County Sheriff's Office shall, as often as necessary, hold tests to establish lists of persons eligible for the various positions in the classified service. The test may be conducted through the use of a computer or written exams at a location designated by the sheriff.

(b) Such tests shall be public, competitive, and open to all persons who may be lawfully eligible. 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 available to all classified employees within that class who are eligible. A classified employee is eligible for promotion within a class if that person has prior active certified law enforcement status or state or federal certifications relating to that position with at least five (5) years of experience; provided, however, that person has at least three (3) years of active service in the Madison County Sheriff's Office.

(d) All tests shall be practical and shall consist only of subjects that 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) No list of eligible employees 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) Upon successful completion and passing of tests, applicants may be reviewed by the department administration and hired at the discretion and consent of the sheriff or the sheriff's designated board. Applicants shall not be hired until a passing score is achieved.

(g) Once a civil service exam is adopted, the Civil Service Board shall review the exam and determine whether or not to approve the exam.

Section 13. Probationary Periods.

(a) An employee who is still on the twenty-four month probationary status is defined as a "newly hired employee." No appointment for any position in the classified service shall be deemed complete until after the expiration of twenty-four (24) months of 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 of the sheriff, the sheriff may terminate the employment of that person, who will hold no right of appeal to the Civil Service Board.

(b) Whenever a position of the classified service is filled by promotion, and the services of the person promoted are terminated by the sheriff during a probationary period of twelve (12) months from the hire of the appointment, the person shall be returned to the person's former rank in the classified service; provided, the person held that former rank for a period of at least one (1) year, unless such person's conduct during the probationary period has given grounds for dismissal for cause under this act.

(c) 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 Civil Service

Board of the action taken and the reason for it. The person's name will then be stricken from the eligible list.

Section 14. Transfers.

(a) 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.

(b) A non-POST certified employee is eligible for transfer to a POST certified position after a twelve-month service.

(c) If a transfer from a non-POST certified position to a POST certified position takes place, the probationary rules still remain in effect; however, the employee will undergo a twelve-month probationary period in the POST certified position.

(d) The sheriff shall not transfer a POST certified employee from a POST certified position/class into a non-POST certified position within the department without written request by the employee, or for just cause. If such occurrence takes place, the employee may appeal the transfer to the Civil Service Board for a hearing; provided, that employee has completed the established probationary status.

(e) If a POST certified employee is operating in a non-active law enforcement position, it shall be the responsibility of the department to provide the necessary training for that employee to maintain their POST certification.

Section 15. Civil Service Investigations and Hearings.

The Civil Service Board, when conducting any investigations or hearings authorized by this act, shall have the power to 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 Civil Service Board or a subpoena issued by the Civil Service 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 Civil Service 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 Civil Service Board.

Section 16. Suspensions.

(a) 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-month period of time without a right of appeal.

(b) 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 Civil Service Board, not more than thirty (30) days from the date of the receipt of the request, shall set a hearing date.

Section 17. Political Activity.

All political activity by employees will be governed by state and federal law.

Section 18. Demotion and Termination for Just Cause.

(a) No person holding any classified position of employment shall be discharged from the service of the department or demoted except for just cause, and it is expressly intended that engaging in any political activity or refusing to engage in any political activity shall not be just cause for discharge, suspension, or demotion of any employee holding a classified position.

(b) All classified employees discharged or demoted shall have the right to be heard by the Civil Service Board in his or her own defense, in person or by counsel, and the action of the sheriff in discharging or demoting such person shall be subject to the approval or disapproval of the Civil Service Board. If the

Civil Service Board approves the discharge or demotion, the decision may be appealed to the court having jurisdiction. If discharge or demotion is disapproved by the Civil Service Board, the employee shall be reinstated to the position with full pay and rights from the day of discharge or demotion.

(c) A written request for a hearing must be made by the appellate within five (5) business days from the date of discharge or demotion.

(d) No employee holding a classified position shall be discharged for any non-criminal act, as long as the act does not involve moral turpitude, which occurred more than twelve (12) months prior to the date of discharge. If the act does involve moral turpitude or is a criminal act, and the act occurred from the time of employment to the time of discovery, the sheriff may suspend, demote, or terminate the employee at the sheriff's discretion.

(e) Nothing in this section shall be interpreted as contradicting Section 17 above, and to the extent a conflict is found between the provisions of this section and Section 17, the terms of Section 17 shall prevail.

Section 19. Scope and Construction.

The section headings in this act are for reference purposes only and do not constitute a part of the act enacted hereby.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Madison County before August 1, 2015. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.