

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.]

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

8 § 1935. POWERS

9 Police officers who are employed by a police department established under  
10 this chapter or pursuant to charter shall have the same powers as sheriffs in  
11 criminal matters and the enforcement of the law and the same powers,  
12 immunities, and matters of defense in serving criminal and civil process. The  
13 powers granted to police officers under this section may be exercised  
14 statewide.

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

16 § 1591. SHERIFFS AND OTHER OFFICERS

17 There shall be paid to ~~sheriffs'~~ departments and constables in civil causes  
18 and to sheriffs, deputy sheriffs, and constables for the transportation and care  
19 of prisoners, juveniles, and mental patients the following fees:

20 (1) Civil process:

21 ~~\*\*\*~~

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 [Repealed.]~~

4 ~~\*\*\*~~

5 Sec. ~~9.~~ 8. EFFECTIVE DATE

6 This act shall take effect on July 1, 2013.