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# Civil Service Law

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# Civil Service Law

## Private Acts of 1983 Chapter 54

**SECTION 1.** There is created a Madison County Sheriff's Department Civil Service Commission (the commission), which shall consist of three (3) members. One (1) member shall be appointed by the county legislative body of Madison County. One (1) member shall be selected by a majority vote of the classified employees of the Madison County Sheriff's Department (the department). The third member shall be selected by the two (2) members whose method of selection is provided above.

A member shall be at least thirty (30) years of age and shall have been a resident of Madison County for at least five (5) years. A member shall serve for a term of six (6) years; provided, however, for the initial selections the member appointed by the county legislative body of Madison County shall serve a two (2) year term; the member selected by classified employees of the department shall serve a six (6) year term; the third member who is selected by the other two members shall serve a four (4) year term.

Each member shall have equal power, and a majority vote of the members is necessary to authorize any commission action or decision. Two (2) members shall constitute a quorum for the transaction of business. No member of the commission shall be employed in any manner by a municipal, county, state or federal government. No member shall hold any elected or appointed position in any governing body and no member shall be a member of the immediate family of any employee of the department. Any vacancy in the commission shall immediately be filled for the remainder of the unexpired term in the same manner as the position was originally filled.

**SECTION 2.** Each member of the commission shall receive a salary of seventeen dollars and fifty cents (\$17.50) per meeting. Each member shall be reimbursed his necessary expenses incurred in the discharge of official duties. The county legislative body of Madison County shall make adequate financial provision including stenographic services for the commission in the performance of its duties. The commission shall hold no more than ten (10) meetings a year.

**SECTION 3.** The commission shall elect a chairman who shall preside over all meetings, a vice chairman to serve in the absence of the chairman, and a secretary.

The secretary shall keep complete and accurate records of all proceedings held by the commission in a minute book to be provided for this purpose. The secretary shall likewise keep a complete and accurate record of employment lists as provided in Section 5.

**SECTION 4.** All full-time employees of the department, holding a classified position, as set out hereafter, on the payroll of the department on the date this Act is ratified by the county legislative body of Madison County as required in Section 18, shall be covered by the provisions of this Act except as noted, and shall not be required to take an examination to continue in their presently classified positions.

**SECTION 5.** After this Act is ratified as required in Section 18, any person seeking employment with the department for any classified position as hereinafter defined, with the exception noted below, shall first be examined and declared qualified by the commission. All other classified positions in the department shall be filled as provided below.

The examination may be written or practical and shall be prepared by the commission on advice of the sheriff, and shall be a comprehensive examination related to the field which it covers. The commission shall regularly hold competitive examinations for classified positions; such examinations shall be offered annually to any applicant and more often as necessary. The commission shall cause a notice to appear not less than thirty (30) days prior to the date set for such examination, and the notice shall contain a brief statement of classified position or positions for which examinations will be held, a brief statement of the subjects upon which the applicants will be examined, the time and place of the examination and the duties required by such classified position. The commission shall prepare a list of those persons declared qualified for each classified position, in the order of their excellence as determined by the examination. If a vacancy occurs in a classified position, and upon the request from the sheriff, the commission shall certify to the sheriff the names of those persons qualified for such vacancy. The sheriff may select any one (1) of those persons for the classified position. Each classified position in the department, except detention specialist and deputy shall be filled by a promotion by the sheriff from a holder of a classified position. Deputized clerical and office staff shall be appointed by the sheriff.

As amended by: Private Acts of 1995, Chapter 42

Every February, a new classified position list shall be established by examination and any applicant shall take such examination before he or she can be eligible for listing as an applicant for a classified position. This paragraph applies whether a person was listed on a former classified position or not.

As amended by: Private Acts of 1986, Chapter 185

**SECTION 6.** 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. All persons discharged or demoted shall have the right to be heard by the commission in his 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 commission. If the commission approves the discharge or demotion, the decision shall be final. If such discharge or demotion be disapproved the employee shall be reinstated to such position with full pay and rights from the day of discharge or demotion. The sheriff shall have the authority to suspend any classified position holder in the department for a period not exceeding one (1) consecutive fifteen (15) day period without approval of the commission; provided, however, where the suspension exceeds one (1) consecutive three (3) day period the classified position holder shall have the right to request an appeal and review by the commission. Written request for hearing must be made within five (5) days from date of discharge, demotion or suspension. No employee holding a classified position shall be discharged or suspended for any act not involving moral turpitude which occurred more than six (6) months prior to the date of discharge.

Any person holding a classified position in the department may be reduced in rank for cause, but such action shall likewise be subject to the approval or disapproval of the commission upon appeal duly perfected.

None of the provisions of this section shall apply to any classified position during the first twelve (12) months of employment; such period is hereby declared to be a probationary period.

None of the provisions of this section shall apply to prevent the discharge of the holder of a classified position who was employed as the result of the resignation of the holder of a classified position to enter the armed forces, but upon the return of such holder from the armed forces, the holder of the position with the least seniority may be discharged, in which case such holder would revert to the classified position list.

**SECTION 7.** The following positions within the department are hereby declared to be classified positions within the meaning of this act: 1) captains, 2) lieutenants, 3) sergeants, 4) investigators, 5) deputies, 6) deputized clerical and office staff, 7) communications officer and 8) assistant chief deputy and 9) detention specialists.

As amended by: Private Acts of 1994, Chapter 152

All positions not classified herein as classified positions are unclassified positions and such unclassified positions are not covered by the provisions of this act.

As amended by: Private Acts of 1986, Chapter 185  
Private Acts of 1991, Chapter 27  
Private Acts of 1991, Chapter 107

**SECTION 8.** It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this Act and of the rules of the commission and to defend all civil suits which may be brought against the commission. The commission shall be represented in such suits by the county attorney except in cases wherein the county attorney may be an interested party. In such event their [sic] commission may employ special counsel, and the expense shall be borne by the county.

**SECTION 9.** In any investigation conducted by the commission, the commission shall have the power to subpoena and require the attendance of witnesses and the production by them of books and papers, pertinent to the investigation and to administer oaths to such witnesses.

**SECTION 10.** Any person who obstructs or deceives any person in respect to his or her rights under this Act, makes a false report or certificate, or bribe, or attempt to bribe any employee of the commission or in any other way fraudulently conduct themselves to gain favor for any person or persons, shall be punishable by a civil penalty of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1000.00).

**SECTION 11.** Immediate reports in writing shall be given to the commission by the head of the sheriff's department of all occurrences which affect the status of classified positions or the performance of duties of all persons holding classified positions.

**SECTION 12.** The working day for any employee of the department shall be eight (8) hours of duty in any twenty-four (24) hour period. The working week shall consist of five (5) eight (8) hour days. Each employee of the department shall receive two (2) days off each week. Each employee of the department shall receive compensatory time for each hour worked in excess of eight (8) hours per twenty-four (24)

hour period and in excess of forty (40) hours per week at the rate of one (1) compensatory hour to be taken at a later time in return for each hour worked overtime.

No compensatory time shall be granted for attendance in court unless the officer is duly subpoenaed to attend in state or federal courts and duly claims his witness fee for such attendance. Such attendance fee shall be paid to Madison County.

**COMPILER'S NOTE:** This is to the extent that the provisions do not conflict with the Federal Fair Labor Standards Act (FLSA).

**SECTION 13.** All members of the department shall be entitled to retirement benefits as provided by the general law.

**SECTION 14.** The sheriff shall designate the specific days which employees shall receive as paid holidays.

**SECTION 15.** Each member of the department shall be entitled and allowed to receive all hospital, medical, and surgical expenses which were incurred as a result of an injury received by an employee in the performance of his departmental duty as a member of the department.

**SECTION 16.**

(a) It is the policy of the county to promote employee efficiency, health and morale through periodic interruption from one's duties. Paid leave is provided based on length of service as follows:

(1) Any employee who has less than five (5) years of full time service shall accrue annual leave at the rate of ten (10) days for each year of service. Such an employee shall be credited with five (5) days of annual leave at the end of each six (6) month period.

(2) Any employee who has five (5) years and less than ten (10) years of full time service shall accrue annual leave at the rate of one (1) day per month.

(3) Any employee who has more than ten (10) years of full time service shall accrue annual leave at the rate of one and one-fourth (1 1/4) days per month.

(b) Annual leave may be used only at times approved in advance by an immediate supervisor.

(c) An employee may accumulate a maximum of thirty (30) work days of annual leave. Any greater amount of annual leave shall be forfeited.

(d) Accrued annual leave may be used for maternity leave.

**SECTION 17.**

(a) An employee of the department shall receive full pay during incapacity caused by illness, subject to the guidelines of subsection (b).

(b) Any employee shall become eligible for sick leave if:

(1) Employees are incapacitated by sickness or injury; for medical, dental, or optical diagnosis and treatment.

(2) For necessary care and attendance of a member of the employee's immediate family when approved by department head or his appointed representative.

(3) After exposure to a contagious disease, when certified by a qualified doctor's certificate, that the employee may jeopardize the health of others.

(4) Each permanent employee will accrue sick leave at the rate of one (1) work day per month with the maximum accumulation of one hundred twenty (120) work days.

(5) Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

(6) To prevent abuse of the sick leave privilege, the department head is required to satisfy himself that the employee is genuinely ill before paying sick leave.

(7) Any absence may require a doctor's certificate, and any absence in excess of three work days shall require a doctor's certificate to return to work, if in the opinion of the immediate supervisor, such action is deemed appropriate.

(8) Accumulated sick leave has no value except for the purpose granted, and in the event of retirement or separation, all unused sick leave shall be forfeited.

(9) Accrued sick leave may be used as maternity leave.

(10) For leave purposes, the service an individual has to his credit, includes all time spent as a

permanent employee of the county.

(11) Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days.

(12) Employees claiming sick leave while on annual leave must support their claim by a doctor's statement or other satisfactory proof.

**SECTION 18.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Madison County before August 1, 1983. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

**SECTION 19.** 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 upon being approved as provided in Section 18.

Passed: April 6, 1983.

## Private Acts of 2021 Chapter 7

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; Chapter 42 of the Private Acts of 1995; Chapter 6 of the Private Acts of 2015, and any other acts amendatory thereto, that being the Madison County Sheriff Department's Civil Service Commission system, is amended by deleting Chapter 54 as amended and substituting instead the following:

Section 1. This Act shall be known as the "Madison County Sheriffs Civil Service Law of 2021."

Section 2. Classified Service.

For purposes of this act, "classified service" includes all fulltime employees in the Madison County Sheriff's Office, except for: the sheriff; the sheriffs personal secretary; the chief deputy sheriff; each assistant chief deputy sheriff; each major; each colonel; each inspector; each employee who holds a rank higher than the rank of captain; and any administrative employee who reports directly to the sheriff.

Section 3. Civil Service Board.

There is created a civil service board composed of three (3) members, one (1) of whom shall be selected by the Madison County Legislative Body, one (1) of whom shall be selected by the Madison County Sheriff, and one ( 1) of whom shall be selected by the Madison County Deputy Sheriffs Association.

Section 4. Terms.

The terms of the 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 Sheriff for two (2) years; and one (1) member selected by the Madison County Deputy Sheriffs Association for three (3) years.

Section 5. Civil Service Board Standards.

Each member of the board shall be over thirty (30) years of age, of good moral character, a citizen of the United States and the state 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 Board 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 such 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 to determine whether the sheriff had just cause for employment decisions made regarding:

(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) For purposes of this Act, "just cause" includes, but is not limited to, the following actions or inactions of the employee:

(1) Failure to maintain Peace Officers Standards Training Commission standards;

(2) Failure to maintain Tennessee Corrections Institute Standards;

(3) Violation of a disciplinary rule of the sheriff's office; and

(4) Violation of state or federal law.

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

#### Section 9. Grandfathered Employees.

All non-probationary employees 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.

#### 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. The sheriff may set limitations as to residence, age, health, habits, moral character, education, experience, 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 1) at least three (3) years of active service in the Madison County Sheriffs Office; and 2) at least one (1) year of service in the position from which they are being promoted.

(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) Upon successful completion and passing of tests, applicants and candidates for promotion will be interviewed and their record reviewed by the Madison County Sheriff's Office administration and hired or promoted at the discretion and consent of the sheriff. This interview and review shall be part of the evaluation in the promotion and hiring process.

(f) 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 to request 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 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) working 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) working days within any given six-month period 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. 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, except where prohibited by state or 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, suspended, or demoted except for just cause, as set forth in Section 8 above.



(b) Any classified employee discharged or demoted shall have the right to request a hearing in person before the Civil Service Board in his or her own defense. A written request for a hearing must be submitted by the appellant to the sheriff, with a copy submitted to the county mayor, within five (5) business days from the date of discharge or demotion.

(c) At the hearing before the Civil Service Board, the action of the sheriff in discharging or demoting the employee shall be reviewed by the Civil Service Board to determine whether or not the sheriff's decision was supported by just cause, as set forth in Section 8 above. Review by the Civil Service Board is not a de novo consideration of the employment decision made by the sheriff.

(d) Both the sheriff and the employee who has requested a hearing before the Civil Service Board may be represented by counsel during the hearing process and at the hearing.

(e) At the hearing before the Civil Service Board, the employee shall have the burden of proving by a preponderance of the evidence that the sheriff's decision was not supported by just cause. The employee shall present his or her case first, to be followed by the sheriff's presentation. The Civil Service Board shall have the discretion to permit the parties to make opening statements and/or closing arguments.

(f) The Civil Service Board shall issue a written decision no more than sixty (60) days from the date of the hearing. Either the employee or the sheriff may seek judicial review of the decision of the Civil Service Board. If the Civil Service Board finds that the sheriff's decision was not supported by just cause, and the sheriff does not seek judicial review of that decision, the employee shall be reinstated to the position with full pay and rights from the day of discharge or demotion.

#### 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, 2021. 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.

Passed: April 20, 2021

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