

LOCAL GOVERNMENT CODE

TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT

SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 85. SHERIFF

SUBCHAPTER A. SHERIFF AND SHERIFF'S PERSONNEL

Sec. 85.001. OATH AND BOND. (a) A person elected as sheriff, before beginning to perform the duties of office, must execute a bond with:

- (1) two or more good and sufficient sureties; or
- (2) a solvent surety company authorized to do business in this state.

(b) The bond must be:

- (1) approved by the commissioners court of the county;
- (2) made payable to the governor;
- (3) in an amount established by the commissioners court, but not less than \$5,000 or more than \$30,000; and

(4) conditioned that the sheriff will:

(A) faithfully perform the duties of office established by law;

(B) account for and pay to the person authorized by law to receive them the fines, forfeitures, and penalties the sheriff collects for the use of the state or a county;

(C) execute and return when due the process and precepts lawfully directed to the sheriff, and pay to the person to whom they are due or to the person's attorney the funds collected by virtue of the process or precept; and

(D) pay to the county any funds illegally paid, voluntarily or otherwise, to the sheriff from county funds.

(c) The sheriff must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the bond.

(d) A person elected or appointed as sheriff who has executed the bond and taken the official oath may enter at once on the duties of office, and that person's acts shall be as valid under law before the receipt of a commission as after the receipt of a

commission.

(e) The bond is not void on the first recovery, but may be sued on from time to time in the name of any injured person until the entire amount of the bond is recovered.

(f) A sheriff or deputy sheriff is not liable on an official bond, and is not personally liable, for having received or confined a prisoner delivered or surrendered to the sheriff or deputy by a state ranger.

(g) Repealed by Acts 1997, 75th Leg., ch. 973, Sec. 1, eff. June 18, 1997.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 973, Sec. 1, eff. June 18, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. [2120](#)), Sec. 17, eff. September 1, 2005.

Sec. 85.0011. QUALIFICATIONS. A person is not eligible to serve as sheriff unless the person:

(1) has a high school diploma or a high school equivalency certificate; and

(2) is eligible to be licensed under Sections [1701.309](#) and [1701.312](#), Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 985, Sec. 3. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.819, eff. Sept. 1, 2001.

Sec. 85.002. NEW BOND REQUIREMENT; REMOVAL. (a) If a surety of the sheriff dies, moves permanently from the state, becomes insolvent, or is released from liability in accordance with law or if the commissioners court considers the sheriff's bond insufficient, the commissioners court shall cite the sheriff to appear at a time named in the citation, after the 10th day but on or before the 30th day after the date of issuance of the citation, and require the sheriff to execute a new bond with good and sufficient security.

(b) If the sheriff neglects or refuses to appear and execute the bond on or before the designated time, that person may not exercise the functions of office and shall be removed from office by

the district judge in the manner prescribed by law for the removal of county officers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.0025. CONTINUING EDUCATION. (a) The Texas Commission on Law Enforcement may require each county sheriff who is not a commissioned peace officer to attend not more than 40 hours of instruction in law enforcement. The commission shall allow a sheriff at least two but not more than four years after the date on which the sheriff assumes office to complete the hours of instruction.

(b) If a sheriff is reelected to office and had previously completed the number of hours of instruction required by the commission, the commission may exempt the sheriff from attending further courses or may require the sheriff to complete again the required number of hours of instruction.

(c) The county in which the sheriff serves shall pay for or reimburse the sheriff for the cost of the required hours of instruction received in this state.

(d) The commission shall:

(1) approve course content, course credit, and standards for courses; and

(2) adopt rules and procedures concerning the courses.

(e) For the purposes of removal under Subchapter B, Chapter 87, "incompetency" in the case of a sheriff includes the failure to complete the hours of instruction in accordance with this section.

(f) The commission may waive the requirement that a sheriff complete the instruction required under this section if the sheriff requests a waiver because of hardship and the commission determines that a hardship exists.

Added by Acts 1989, 71st Leg., ch. 1032, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.46, eff. May 18, 2013.

Sec. 85.003. DEPUTIES. (a) The appointment of a deputy sheriff must be in writing.

(b) Except as provided by Subsection (b-1), a person appointed as a deputy, before beginning to perform the duties of office, must take and subscribe the official oath, which, together with the certificate of the officer administering the oath, must be endorsed on the appointment. The appointment and oath shall be deposited and recorded in the county clerk's office. A list of the appointments shall be posted in a conspicuous place in that office.

(b-1) A person reappointed as a deputy may continue to perform the duties of office before retaking the official oath. The deputy must retake the oath as soon as possible after being reappointed.

(c) Except as provided by Subsection (f), a deputy serves at the pleasure of the sheriff. The sheriff may revoke the appointment of a deputy on the indictment of the deputy for a felony.

(d) A sheriff is responsible for the official acts of a deputy and may require that a deputy execute a bond or other security. A sheriff has the same remedies against a deputy and the deputy's sureties as any other person has against the sheriff and the sheriff's sureties.

(e) A deputy may perform the acts and duties of the deputy's principal.

(f) A deputy who is included in the coverage of a civil service system created under Chapter 158 may be suspended or removed only for a violation of a civil service rule adopted under that system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1060 (H.B. 2283), Sec. 1, eff. June 15, 2007.

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. 1049), Sec. 1, eff. September 1, 2021.

Sec. 85.004. RESERVE DEPUTIES. (a) The commissioners court of a county may authorize the sheriff to appoint reserve deputy sheriffs. The commissioners court may limit the number of reserve deputies that may be appointed.

(b) A reserve deputy serves at the discretion of the sheriff and may be called into service if the sheriff considers it necessary to have additional officers to preserve the peace and enforce the law. The sheriff may authorize a reserve deputy who is a peace officer as described by Article 2.12, Code of Criminal Procedure, to carry a weapon or act as a peace officer at all times, regardless of whether the reserve deputy is engaged in the actual discharge of official duties, or may limit the authority of the reserve deputy to carry a weapon or act as a peace officer to only those times during which the reserve deputy is engaged in the actual discharge of official duties. A reserve deputy who is not a peace officer as described by Article 2.12, Code of Criminal Procedure, may act as a peace officer only during the actual discharge of official duties. A reserve deputy, regardless of whether the reserve deputy is a peace officer as described by Article 2.12, Code of Criminal Procedure, is not:

(1) eligible for participation in any program provided by the county that is normally considered a financial benefit of full-time employment or for any pension fund created by statute for the benefit of full-time paid peace officers; or

(2) exempt from Chapter 1702, Occupations Code.

(c) Except as provided by Subsection (c-1) or (c-2), a reserve deputy, before beginning to perform the duties of office and at the time of appointment, must file an oath and execute and file a bond in the amount of \$2,000 payable to the sheriff. The oath and bond shall be filed with the county clerk.

(c-1) If a sheriff appoints more than one reserve deputy sheriff, the sheriff may execute a blanket surety bond to cover the reserve deputy sheriffs. Instead of a reserve deputy sheriff executing an individual bond under Subsection (c) or the sheriff executing a blanket surety bond, the county may self-insure against losses that would have been covered by the bond.

(c-2) A person reappointed as a reserve deputy may continue to perform the duties of office before retaking the official oath. The reserve deputy must retake the oath as soon as possible after being reappointed.

(d) A reserve deputy on active duty at the call of the

sheriff and actively engaged in assigned duties has the same rights, privileges, and duties as any other peace officer of the state.

(e) The sheriff of a county that borders the Gulf of Mexico may organize some of the reserve deputies to serve as marine reserve deputies and lifeguards for beach and water safety purposes and other related functions as the sheriff may determine. A reserve deputy performing functions under this subsection is subject to the laws of this state that relate to reserve deputies except that they may not carry firearms in the performance of their duties.

(f) An organization formed under Subsection (e) may include both paid and unpaid deputies and reserve deputies. The organization may accept contributions and gifts from foundations, individuals, corporations, and governmental entities, including appropriations by the state on a direct or matching fund basis, to assist the county in providing water safety programs in the interest of the health, safety, and welfare of persons using the coastal water of this state.

(g) The county or sheriff is not liable, because of the appointment of a reserve deputy, if the reserve deputy incurs personal injury while serving in an official capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 90, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.820, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 171 (H.B. [2272](#)), Sec. 1, eff. May 28, 2015.

Acts 2021, 87th Leg., R.S., Ch. 234 (H.B. [1049](#)), Sec. 2, eff. September 1, 2021.

Sec. 85.005. GUARDS; PENALTY. (a) The sheriff may, with the approval of the commissioners court or, in the case of an emergency, with the approval of the county judge, employ a sufficient number of guards to ensure the safekeeping of prisoners and the security of a jail.

(b) In case of an emergency, a guard is subject to being called to duty by the sheriff.

(c) A person charged with the responsibility of enforcing this section commits an offense if the person violates the section. An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 12(a), eff. Aug. 28, 1989.

Sec. 85.006. COUNTY POLICE FORCE IN COUNTIES OF 210,000 OR MORE. (a) In a county with a population of 210,000 or more, the sheriff may appoint a county police force. The commissioners court shall determine the number, which must be at least six, of police officers to be appointed. The sheriff shall appoint one of the officers as chief of the county police. The appointments are subject to approval by the commissioners court. The sheriff may, subject to approval by the commissioners court, terminate the employment of an officer.

(b) The sheriff shall deputize each police officer appointed under this section. Each officer has the authority of a deputy sheriff, and all laws of the state applicable to deputy sheriffs apply to the officer to the same extent that they apply to deputy sheriffs unless the law conflicts with this section.

(c) A police officer appointed under this section shall patrol, by automobile or motorcycle furnished by the officer, the highways of the county located outside the corporate limits of the county seat. The officer shall devote all time spent on duty to performing that service and to matters related to that service. The officer shall perform all duties in accordance with rules adopted by the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER B. MISCELLANEOUS POWERS AND DUTIES

Sec. 85.021. EXECUTION OF PROCESS; PENALTY. (a) The sheriff shall execute all process and precepts directed to the sheriff by legal authority and shall return the process or precept to the proper court on or before the date the process or precept is returnable.

(b) The sheriff commits an offense if the sheriff:

(1) fails to return a process or precept as required by Subsection (a); or

(2) makes a false return.

(c) An offense under this section is punishable by the court to which the process is returnable, as for contempt, by a fine of not more than \$100. A fine collected under this section shall be deposited in the county treasury.

(d) The sheriff is liable for all damages sustained by a person by reason of an offense committed by the sheriff under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.022. EXECUTION OF LEGISLATIVE PROCESS; PENALTY.

(a) The sheriff shall execute subpoenas and other process directed to the sheriff that are issued by the speaker of the house of representatives, the president of the senate, or the chairman of a committee of either house of the legislature.

(b) Failure to execute the subpoena or other process under Subsection (a) carries the same penalties as failure to execute process issued by a court.

(c) If the sheriff performs services under this section, the sheriff shall receive the fees prescribed by law for similar services rendered in the courts. The fee shall be paid on the certificate of the authority issuing the process.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 85.023. UNFINISHED BUSINESS. If a sheriff vacates the office for any reason, all unfinished business shall be transferred to the succeeding sheriff and completed in the same manner as if the successor had begun the business.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.