CHAPTER 11-15
SHERIFF

11-15-01. Sheriff eligible for two terms only.
Repealed by S.L. 1953, ch. 110, § 2.

11-15-01.1. Sheriff must be qualified elector and must receive required training - Exception.
Except as otherwise specifically provided by state law, the sheriff must be a qualified elector in the county in which the sheriff is elected. Within one year after taking office, the sheriff shall attend the sheriffs' school on civil process for one week, and unless already licensed under sections 12-63-01 through 12-63-14, shall begin the training necessary to become so licensed. Within two years after taking office, the sheriff shall complete the procedures required to be licensed under sections 12-63-01 through 12-63-14.

11-15-02. Sheriff may appoint special deputies - Compensation.
The sheriff may appoint and qualify special deputies in such numbers as are required by the conditions. Each special deputy shall receive compensation for services rendered and the same mileage allowance as regular deputies, which must be paid by the county within the limits of funds budgeted for such purpose. The sheriff shall have the sole power of appointing special deputies and may remove them at pleasure.

11-15-03. Duties of sheriff.
The sheriff shall:
1. Preserve the peace.
2. Arrest and take before the nearest magistrate, or before the magistrate who issued the warrant, all persons who attempt to commit or who have committed a public offense.
3. Prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to the sheriff's knowledge.
4. Attend each term of the district court held within the county; obey its lawful orders and directions; and act as crier thereof and make proclamation of the opening and adjournment of court and of any other matter under its direction.
5. Command the aid of as many inhabitants of the county as the sheriff may think necessary in the execution of the sheriff's duties.
6. Take charge of and keep the county jail and the prisoners therein.
7. Endorse upon all notices and process received by the sheriff for service the year, month, day, hour, and minute of reception, and issue therefor to the person delivering it, on payment of the sheriff's fees, a certificate showing the names of the parties, the title of the paper, and the time of its reception.
8. Serve all process or notices in the manner prescribed by law.
9. Certify under the sheriff's hand upon each process or notice the time and manner of service, or if the sheriff fails to make service, the reasons for failure, and return the same without delay.
10. Perform such other duties as are required of the sheriff by law.
11. Enforce, personally or through deputies, all statutes defining traffic violations denominated noncriminal by section 39-06.1-02.

11-15-03.1. Salary of county sheriff.
Repealed by S.L. 1975, ch. 87, § 2.

11-15-04. Sheriff to execute all process.
A sheriff shall execute all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceeding upon which they were issued.

11-15-05. To exhibit process.

The sheriff executing any process, at all times, so long as the sheriff retains it, must show the same, upon request, with all papers attached, to any person interested therein.

11-15-06. Duty of sheriff to serve papers in civil action - When coroner to perform duties of sheriff.

Whenever, pursuant to the laws of this state, the sheriff is required to serve or execute any summons, order, or judgment, or to do any other act, the sheriff shall be bound to do so in like manner as upon process issued to the sheriff and shall be liable equally in all respects for neglect of duty. If the sheriff is a party, the coroner shall be bound to perform the service, as the coroner is bound to execute process when the sheriff is a party. The provisions of title 28 relating to the sheriff shall apply to coroners when the sheriff is a party.

11-15-07. County fees.

The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a summons, writ of attachment, writ of execution, subpoena, notice of motion, or other notice or order of the court, order of replevin, injunctional order, citation, or any other mesne process and making a return thereon, in addition to the actual incurred costs of postage and long-distance telephone calls a total of twenty dollars for each person served.
2. For making a return of not-found, twenty dollars.
3. For taking and filing a bond in claim and delivery or any other undertaking to be furnished and approved by the sheriff, twenty dollars.
4. For making a copy of any process, bond, or paper, other than as is herein provided, two dollars per page.
5. For levying or executing any writ, forty dollars.
6. For calling an inquest to appraise any goods and chattels that the sheriff may be required to have appraised, twenty-five dollars, and each appraiser is entitled to receive one hundred dollars to be taxed as costs.
7. For advertising a sale by means of a sheriff's notice of sale, in addition to any publishing fees, twenty dollars.
8. For making a deed to land sold on execution or under an order of sale, twenty dollars.
9. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, twenty dollars.
10. For selling real or personal property under foreclosure of any lien or mortgage, seventy-five dollars.
11. For boarding prisoners, a sum to be determined by the board of county commissioners, by resolution in advance, which sum must be per meal for meals actually served, and may not be less than two dollars for breakfast, two dollars and fifty cents for dinner, and three dollars and fifty cents for supper.

11-15-08. Commissions collected by sheriff.

1. Except as provided in section 11-15-09, the sheriff is entitled to collect commissions on behalf of the county on all moneys received and disbursed by the sheriff on an execution, order of sale, order of attachment, requisition in claim and delivery, or decree for the sale of real or personal property as follows:
   a. On the first one thousand dollars, seventy-five dollars.
   b. On all moneys in excess of one thousand dollars, one percent.
2. Except as provided in subsection 3, if no sale is held under subsection 1, the sheriff may not collect a commission.
3. If personal property is taken by the sheriff on an execution, under a requisition in claim and delivery, or under a writ of attachment and applied in satisfaction of the debt without sale, the sheriff is entitled to collect the commission specified in subsection 1 based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer under section 11-15-14.

11-15-09. Allowances when plaintiff bids in property at sale.

When the person in whose favor an execution or order of sale has been issued by the court bids in the property sold under the execution or pursuant to the judgment, the sheriff or other person making the sale shall collect on behalf of the county either of the following fees, and no more:

1. When the amount for which the property is bid on does not exceed one thousand dollars, forty dollars.
2. When the amount for which the property is bid on exceeds one thousand dollars, seventy-five dollars.

11-15-10. Fees in county court.

Repealed by S.L. 1991, ch. 326, § 203.

11-15-11. Sheriff's expense of preserving property - Approval of court required.

Unless otherwise ordered by the court, the sheriff shall receive the actual expense incurred for taking, transporting, keeping possession of, and preserving property taken under an attachment, execution, or other process. No keeper is entitled to receive more than five dollars per day. Property may not be placed in charge of a keeper unless the property cannot be stored safely and securely, nor unless there is reasonable danger of loss to the property, nor unless the property is of a character as to require the personal attention and supervision of a keeper. The sheriff may require the person in whose favor the attachment, execution, or other process was issued to pay, or to provide security for, in advance, all expenses actually incurred in the taking, keeping, transporting, or preserving the property.

11-15-12. Sheriff's mileage.

A sheriff or deputy, for each mile [1.61 kilometers] actually and necessarily traveled within this state in the performance of official duties, is entitled to reimbursement for mileage expenses in accordance with section 11-10-15.

11-15-13. Fees to be endorsed on process.

When a sheriff or other officer serves a summons, subpoena, bench warrant, venire, or other process in any action to which the state or any county is a party, the officer shall endorse upon the writ or process, or upon a paper attached thereto, at the time the officer makes the return of service thereon, a statement of the officer's fees for the service, the number of miles traveled, and the amount of the officer's mileage. If the officer fails to make the return with the statement and does not file the return with the clerk of the court from which the process issued before judgment is rendered in the action to which the process relates, the officer shall receive no fees for such service, and the board of county commissioners of the county shall not allow the same.

11-15-14. Sheriff's fees collectible in advance - Report of fees - Mileage in criminal cases.

In civil actions, the sheriff shall collect the sheriff's fees in advance. Upon a request for cancellation of a civil action, the sheriff may retain up to twenty dollars of the collected fee. At the expiration of each month, the sheriff shall make a report, verified by the sheriff's affidavit, to the board of county commissioners showing all fees earned and collected during that month and shall transfer those fees to the county treasurer. The sheriff shall maintain a complete record of all fees due to the sheriff's office for services rendered in criminal actions and shall file the sheriff's itemized statement for mileage in connection with criminal cases with the county auditor at the expiration of each month. Claims for mileage in criminal cases shall be audited by the board of county commissioners and paid by the county.

11-15-15. Penalties for not reporting or turning over fees.

Repealed by S.L. 1975, ch. 106, § 673.

11-15-16. Return prima facie evidence of facts stated therein.

The return of the sheriff upon any process or notice is prima facie evidence of the facts stated in such return.

11-15-17. Liability for failure to execute process.

Except as otherwise provided by law or order of the court, if the sheriff to whom a writ of execution or attachment is delivered neglects or refuses to levy upon or sell any property of the party charged in the writ which is liable to be levied upon or sold, which has been made known to the sheriff by the judgment creditor or the creditor's attorney, the sheriff is liable to the creditor for all damages sustained by the creditor. The sheriff is not liable if the sheriff has not levied upon or sold property, when the sheriff's failure to act was the result of following the directions or orders of the creditor or the creditor's agent or attorney.

11-15-18. Liability for failure to make return.

Except as otherwise provided by law or order of the court, if the sheriff does not return a notice or process with the necessary endorsement thereon without delay, or within the time limit required by law, the sheriff is liable to the party aggrieved for all damages sustained by that party.

11-15-19. Liability for failure to pay over money.

Except as otherwise provided by law or order of the court, if the sheriff neglects or refuses to pay over on demand to the persons entitled thereto any money which came into the sheriff's hands by virtue of the sheriff's office, after deducting the sheriff's fees, expenses, or commissions as authorized by law or the court, the sheriff is liable to the party aggrieved for all damages sustained by that party.

11-15-20. When sheriff not liable for rescue or escape.

An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after the person's rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff.

11-15-21. Service of papers other than process on sheriff.

Service of a paper, other than a process, may be made upon the sheriff by delivering it to the sheriff, to one of the sheriff's deputies, or to a person in charge of the office during office hours, or, if no such person is there, by leaving it in a conspicuous place in the office.

11-15-22. Service of process on sheriff.

In all actions or proceedings to which the sheriff is a party, by virtue of office or otherwise, the coroner or other peace officer of the county may serve all necessary process on the sheriff and make return thereon, and the return of the officer making service has the same credit as a sheriff's return. The officer shall receive the same fees as a sheriff receives for like services.

11-15-23. Liability of sheriff for appropriating deputy's salary.

Repealed by S.L. 1975, ch. 106, § 673.

11-15-24. Transportation of prisoner.

The sheriff of each county shall conduct to the penitentiary all persons convicted in the county and sentenced to be confined in the penitentiary as soon as may be after conviction. The sheriff may conduct patients to the state hospital when directed to do so by the district court.

11-15-25. Fees for transporting persons committed to custody of department of corrections and rehabilitation or state hospital.

A sheriff or the sheriff's deputy shall receive for transporting persons committed to the custody of the department of corrections and rehabilitation or to the state hospital the mileage

prescribed in this chapter. The sheriff or deputy shall utilize the least expensive method of transportation, and the mileage allowed must be based only upon the use of the least expensive method of transportation and may be paid only after the filing with the county auditor of an itemized statement verified by affidavit showing the mileage traveled, the manner in which traveled, the days traveled, and the purpose of the travel and showing that the method of travel was the least expensive method of transportation. The county auditor shall submit the statement and affidavit to the board of county commissioners. The county auditor may not pay the claim until the claim is approved by the board.

11-15-25.1. Fees for transporting persons who have escaped or violated probation.

A sheriff or a sheriff's deputy shall receive the expenses incurred in the return of any person who has escaped from a state facility. Those expenses must be paid in amounts as provided by law for state officials, except that the mileage paid must be that regularly paid to the sheriff and the sheriff's deputies. If the person to be returned is a prisoner of a state facility or is ordered returned by a district court judge, the mileage and expenses must be paid by the state.

11-15-26. Sheriff to deliver commitment papers to warden and receive receipt for prisoner.

The sheriff shall deliver a person sentenced to be confined in the penitentiary to the warden of the penitentiary together with a certified copy of the judgment and sentence of the court ordering the imprisonment. The warden shall deliver to the sheriff a receipt in which the warden acknowledges the delivery to the sheriff of the prisoner, naming the prisoner. The sheriff shall return such receipt to the clerk of the court in which the conviction and sentence were had, and the clerk shall file and retain the same in the clerk's office.

11-15-27. General powers of county constable - Fees.

Repealed by S.L. 1985, ch. 151, § 35.

11-15-28. Sheriff prohibited from collecting notes - Penalty.

No sheriff, deputy sheriff, or employee in the sheriff's office, while holding such office or employment, may accept for collection, collect, or attempt to collect from any person, firm, or association within the county for pay, profit, or remuneration any note, account, or claim of any nature or description except as required in the performance of the duties of office. Any violation of the provisions of this section constitutes an infraction.

11-15-29. Uniform for sheriffs and sheriffs' deputies.

The board of county commissioners in each county shall provide funding of at least three hundred fifty dollars per individual per year for uniforms for the sheriff and each sheriff's deputy. The sheriff may expend the funds for uniforms as the sheriff deems necessary and is not limited to an annual amount that may be expended for each uniform or for each individual.

11-15-30. Standard uniform established.

The attorney general with the advice of interested parties and associations shall prescribe a standard uniform for sheriffs and full-time deputy sheriffs.

11-15-31. Uniform surrendered upon termination of employment.

The uniforms and parts thereof purchased by the board of county commissioners must be returned to the sheriff's office upon termination of employment of each sheriff and sheriff's deputy.

11-15-32. Issuance of protection and restraining orders - Duty of sheriff.

The sheriff shall notify the bureau of criminal investigation of any disorderly conduct restraining order issued against an individual in the sheriff's county pursuant to section 12.1-31.2-01 within twenty-four hours of issuance. The notice must include any information required by the bureau of criminal investigation. The law enforcement agency shall enter the

order into any information system available in the state that is used to list outstanding warrants for a period of one year or until the date of expiration or termination as specified in the order. The order is enforceable in any jurisdiction in this state.

11-15-33. County law enforcement officer - Fresh pursuit.

A county law enforcement officer in fresh pursuit may enter another county and may continue within that county in fresh pursuit to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of law enforcement officers having jurisdiction in that county would cause a delay permitting escape. As used in this section, "fresh pursuit" means fresh pursuit as defined in section 29-06-07.