

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 670
HOUSE BILL 343

AN ACT TO REVISE PORTIONS OF CHAPTER 162 RELATING TO SHERIFFS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-2 is rewritten to read as follows:

"§ 162-2. **Disqualifications for the office.** – No person shall be eligible for the office of sheriff who is not of the age of 21 years, or has not resided in the county in which he is chosen for one year immediately preceding his election. No person shall engage in the practice of law or serve as a member of the General Assembly while serving as sheriff."

Sec. 2. G.S. 162-5 and G.S. 162-5.1 are each amended by deleting the word "bonds" and inserting in lieu thereof the word "bond".

Sec. 3. Article 2 of Chapter 162 is amended by rewriting the title of the Article to read:

"Article 2.
"Sheriff's Bond.

Sec. 4. G.S. 162-8 is rewritten to read as follows:

"§ 162-8. **Bond required.** – The sheriff shall furnish a bond payable to the State of North Carolina for the due execution and return of process, the payment of fees and moneys collected, and the faithful execution of his office as sheriff, which shall be conditioned as follows:

The condition of the above obligation is such that, whereas the above bounden _____ is elected and appointed sheriff of _____ County; if therefore, he shall well and truly execute and due return make of all process and precepts to him directed, and pay and satisfy all fees and sums of money by him received or levied by virtue of any process into the proper office into which the same, by the tenor thereof, ought to be paid, or to the person to whom the same shall be due, his executors, administrators, attorneys, or agents; and in all other things well and truly and faithfully execute the said office of sheriff during his continuance therein, then above obligation to be void; otherwise to remain in full force and effect.

The amount of the bond shall be determined by the board of county commissioners, but shall not exceed twenty-five thousand dollars (\$25,000)."

Sec. 5. G.S. 162-9 is rewritten to read as follows:

"§ 162-9. **County commissioners to take and approve bonds.** – The board of county commissioners in every county shall take and approve the official bond of the sheriffs, which they shall cause to be registered and the original deposited with the clerk of superior court for safekeeping. The bond shall be taken on the first Monday of December next after the election."

Sec. 6. G.S. 162-10 is rewritten to read as follows:

"§ 162-10. Duty of commissioners when bond insufficient. – Whenever the board of county commissioners finds that the sheriff has been unable to provide the bond prescribed by the board, the board shall give written notice to the sheriff to appear before the board within 10 days and provide a sufficient bond. If the sheriff fails to appear or provide a sufficient bond, the sheriff shall forfeit his office, and the commissioners shall elect a suitable person in the county as sheriff for the unexpired term, pursuant to G.S. 162-5 or G.S. 162-5.1, as appropriate."

Sec. 7. G.S. 162-11 is repealed.

Sec. 8. G.S. 162-14 is rewritten as follows:

"§ 162-14. Execute process; penalty for false return. – Every sheriff, by himself or his lawful deputies, shall execute and make due return of all writs and other process to him legally issued and directed, within his county or upon any river, bay or creek adjoining thereto, or in any other place where he may lawfully execute the same."

Sec. 9. G.S. 162-15 is rewritten as follows:

"§ 162-15. Sufficient notice in case of amercement. – In any case in which a person aggrieved seeks the imposition of penalties against a sheriff for failure or neglect to perform any duty of office or for any default in office as provided in G.S. 162-12, he may proceed by motion in the cause, supported by an affidavit, in a pending action. Upon the filing of a motion in the cause the clerk shall deliver a copy of the motion and affidavit and an order to show cause to the sheriff."

Sec. 10. G.S. 162-17 is rewritten as follows:

"§ 162-17. Duties of outgoing sheriff for unexecuted process. – It shall be the duty of any sheriff who shall have received a precept, and shall go out of office before the return day thereof, without having executed the same, to deliver same to the succeeding sheriff with sufficient time allowed for it to be executed by him."

Sec. 11. G.S. 162-18 is rewritten as follows:

"§ 162-18. Payment of money collected on execution. – In all cases where a sheriff has collected money upon an execution placed in his hands, if there be no bona fide contest over the application thereof, he shall immediately pay the same to the plaintiff, or into the office of the clerk of the court from which the execution issued."

Sec. 12. G.S. 162-20 is repealed.

Sec. 13. G.S. 162-21 is repealed.

Sec. 14. G.S. 162-22 is rewritten as follows:

"§ 162-22. Custody of jail. The sheriff shall have the care and custody of the jail in his county; and shall be, or appoint, the keeper thereof.

No law enforcement officer or jailer who shall have the care and custody of any jail shall receive any portion of any jail fee or charge paid by or for any person confined in such jail, nor shall the compensation or remuneration of such officer be affected to any extent by the costs of goods or services furnished to any person confined in such jail."

Sec. 15. G.S. 152-24 is rewritten to read as follows:

"§ 162-24. Delegation of official duties. – The sheriff may not delegate to another person the final responsibility for discharging his official duties, but he may appoint a deputy or employ others to assist him in performing his official duties."

Sec. 16. G.S. 162-37 is repealed.

Sec. 17. G.S. 162-38 is rewritten as follows:

"§ 162-38. Where no jail, courts may commit to jail of adjoining county. – Whenever there is an unfit or insecure jail in any county, the judicial officers of such county may commit any persons brought before them, whether in a criminal or civil proceeding, to the jail of any adjoining county, for the same causes and under the like regulations that they might have ordered commitments to the usual jail; and the sheriffs and other officers of such county in which there is an unfit or insecure jail, and the sheriffs or keepers of the jails of the adjoining counties, shall obey any order of commitment so made."

Sec. 18. G.S. 162-40 is rewritten as follows:

"§ 162-40. When jail destroyed, transfer of prisoners provided for. – When the jail of any county is destroyed by fire or other accident, any judicial officer of such county may cause all prisoners then confined therein to be brought before him. Upon the production of the process under which any prisoner was confined, such judicial officer shall order his commitment to the jail of any adjacent county. The sheriff or other officer of the county deputized for that purpose shall obey the order; and the sheriff or keeper of the common jail of such adjacent county shall receive such prisoners consistent with those provisions of G.S. 162-38."

Sec. 19. A new section G.S. 162-40.1 is added as follows:

"§ 162-40.1. Reimbursement for transfer of prisoners. – The county receiving prisoners pursuant to G.S. 162-38, 162-39 and 162-40 shall be reimbursed at the usual jail fee rate for each 24 hours of confinement or part thereof by the county from which the prisoner is transferred."

Sec. 20. G.S. 162-42, 162-43, 162-44 and 162-48 are hereby repealed.

Sec. 21. A new section G.S. 162-50 is added as follows:

"§ 162-50. Penalties. – Upon a finding that the sheriff, personally or through his lawful deputies, has willfully failed or neglected to perform any duty imposed by this Chapter, or has made any false return, he shall be subject to damages of not more than five hundred dollars (\$500.00), and such damages recovered shall be paid to the person aggrieved. Nothing in this section bars an independent action for damages by the person aggrieved."

Sec. 22. G.S. 105-373(a)(1)b. is amended by inserting a parenthesis at the end thereof and by adding two new sentences to read: "The governing body of the taxing unit may publish this list in any newspaper in the taxing unit. The cost of publishing this list shall be paid by the taxing unit."

Sec. 23. G.S. 14-243 is amended by deleting the words "sheriff or".

Sec. 24. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.