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H.671

Introduced by Representatives Gannon of Wilmington and Harrison of
Chittenden
Referred to Committee on
Date:
Subject: Municipal and county government; county officers; high bailiff
Statement of purpose of bill as introduced: This bill proposes to eliminate
certain powers, duties, and bond requirements of the position of high bailiff.

An act relating to the position of high bailiff

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. chapter 181 is amended to read:

CHAPTER 181. PENAL BONDS

* * *

§ 5246. BOND OF SHERIFF AND HIGH BAILIFF-ACTION BY A
CREDITOR AFTER EXECUTION RETURNED UNSATISFIED

When judgment is rendered against a sheriff or high bailiff for official
misconduct, neglect, or default and execution on the judgment is returned
unsatisfied or the defendant is committed to jail thereon, the creditor in the
execution may bring an action, in his or her own name and right, on the
recognizance or bond entered into by the sheriff or high bailiff and his or her

1 sureties for the faithful performance of the duties of his or her office in the
2 Superior Court of the county where the recognizance or bond was taken.

3 § 5247. JUDGMENT

4 Unless cause is shown to the contrary on the trial of the action, the court
5 shall render judgment against the sheriff ~~or high bailiff~~ and his or her sureties,
6 in favor of the creditor, for the amount of the execution and charges thereon
7 with interest and costs.

8 § 5248. DEFENSE BY DEFENDANT AND SURETIES

9 The defendant in the action may make any defense that he or she could have
10 made, had an action of contract been brought on the recognizance or bond.
11 When the original judgment against the sheriff ~~or high bailiff~~ was rendered by
12 default and the creditor brings an action under section 5246 of this title, the
13 sureties may make any defense which the principal might have made in the
14 original action.

15 § 5249. WHEN THE PRINCIPAL HAS REMOVED FROM THE STATE

16 When a person liable as sheriff ~~or high bailiff~~ for official misconduct,
17 neglect, or default has removed from the State leaving no known attachable
18 property therein, so that service of process cannot be made upon him or her, an
19 action founded in contract may be brought directly upon the recognizance or
20 bond of the sheriff ~~or high bailiff~~ and his or her sureties by the party entitled
21 thereto, without first bringing suit against the sheriff ~~or high bailiff~~. In the

1 action, the sureties may make any defense which their principal might have
2 made if the action had been against him or her directly for the misconduct,
3 neglect, or default.

4 * * *

5 Sec. 2. 13 V.S.A. § 1812 is amended to read:

6 § 1812. OFFICERS TO MAKE SEIZURES

7 A district judge, sheriff, deputy sheriff, ~~high bailiff~~, or constable within his
8 or her jurisdiction shall seize forged, false, or counterfeited bank bills or notes
9 or coin and the instruments or implements made or kept for the purpose of
10 making, forging, changing, or counterfeiting gold or silver coin, bank bills, or
11 notes, and deliver the same as soon as may be to the State's Attorney of such
12 county, with the names of the persons from whom the same are taken.

13 Sec. 3. 24 V.S.A. § 301 is amended to read:

14 § 301. PENALTY FOR REFUSAL TO ASSIST

15 A person being required in the name of the State by a sheriff, deputy sheriff,
16 ~~high bailiff, deputy bailiff~~, or constable, who neglects or refuses to assist the
17 officer in the execution of his or her office, in a criminal cause, in the
18 preservation of the peace, in the apprehension and securing of a person for a
19 breach of the peace, in a search and seizure of alcohol as defined in 7 V.S.A.
20 § 2 or in transporting the alcohol when seized, or in a case of escape or rescue
21 of persons arrested on civil process, shall be fined not more than \$500.00,

1 unless the circumstances under which his or her assistance is called for amount
2 to a riot, in which case he or she shall be imprisoned not more than six months
3 or fined not more than \$100.00, or both.

4 Sec. 4. 24 V.S.A. chapter 5, subchapter 6 is amended to read:

5 Subchapter 6. High Bailiffs

6 § 331. OATH; BOND

7 Before entering upon the duties of his or her office, a high bailiff shall be
8 sworn ~~and give a bond such as may be required by the assistant judges. The~~
9 ~~cost of such bond shall be paid by the county.~~

10 § 332. ~~POWERS AND DUTIES~~

11 ~~A high bailiff may serve writs which the sheriff is incompetent to serve, and~~
12 ~~his or her fees shall be the same as those of the sheriff. [Repealed.]~~

13 § 333. ~~CONFINEMENT OF SHERIFF; VACANCY~~

14 ~~A high bailiff by virtue of a writ or other process directed to him or her~~
15 ~~against the sheriff may commit the sheriff to the Commissioner of Corrections.~~
16 ~~While the sheriff remains in confinement, or in case of vacancy in the office,~~
17 ~~the functions of the sheriff shall be exercised by the high bailiff, who shall~~
18 ~~have the powers and be subject to the liabilities of a sheriff until the sheriff is~~
19 ~~released from confinement or one is appointed and sworn into office.~~

20 [Repealed.]

1 Sec. 5. 32 V.S.A. § 4697 is amended to read:

2 § 4697. DISTRAINT BY COPY

3 When a sheriff, ~~high bailiff~~, or other officer, having for service an extent
4 issued against a delinquent collector of taxes, distrains any class of property
5 ~~which~~ that may by law be attached on mesne process by lodging a copy in the
6 town clerk's office, ~~such~~ the officer may lodge a copy of ~~such~~ the extent, with
7 a list of the distrained property ~~so distrained~~ indorsed ~~thereon~~ on the extent
8 with his or her return, in the town clerk's office of the town in which ~~such~~ the
9 property is situated. ~~Such~~ The lodgment shall give to ~~such~~ the officer the same
10 right to hold ~~such~~ the property as if attached on mesne process and taken into
11 the actual custody of ~~such~~ the officer. Within 48 hours after lodging ~~such~~ the
12 copy in the town clerk's office, ~~such~~ the officer shall deliver to ~~such~~ the
13 delinquent collector or leave at his or her last and usual place of abode in this
14 State; a like true and attested copy of ~~such~~ the extent, with a list of the
15 distrained property ~~distrained~~ indorsed ~~thereon~~ on the extent, as is required in
16 the ~~like~~ service of writs of attachment.

17 Sec. 6. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.