

SENATE No. 1565

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to sheriffs.

PETITION OF:

NAME:

Michael O. Moore

DISTRICT/ADDRESS:

Second Worcester

SENATE No. 1565

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1565) of Michael O. Moore for legislation relative to sheriffs. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1622 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to sheriffs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws, as appearing in the 2020 Official Edition, is
2 hereby amended by inserting after section 220 the following section:-

3 Section 221. There shall be a corrections advisory board, hereinafter called the board, to
4 provide independent advice to the commonwealth’s corrections providers, including the sheriffs,
5 to: (i) improve coordination efforts between and among the sheriffs, the department of
6 correction, the courts and community corrections programs; and (ii) identify and establish best
7 practices in all aspects of corrections operations, including, but not limited to, accounting, human
8 resources, care and custody of inmates, special inmate populations, civil process, community
9 corrections, health and mental health care management, inmate rehabilitation and re-entry,
10 capital, master and strategic planning, inmate tracking and transportation and procurement.

11 The board shall include the following members: the secretary of public safety and
12 security, the chair of the parole board, the commissioner of correction, the commissioner of
13 probation, the secretary of administration and finance, the president of the Massachusetts
14 Sheriffs Association, Inc., or their designees, each of whom shall serve ex-officio; 9 persons to
15 be appointed by the governor for a term of 3 years, 1 of whom shall have experience in the areas
16 of workforce development and ex-offender rehabilitation, 1 of whom shall have experience in the
17 area of reintegration and rehabilitation of female ex-offenders, 1 of whom shall have experience
18 in treating people with mental illness and substance use, 1 of whom shall have experience in
19 government accounting practices, 1 of whom shall have experience in human resources
20 management, 1 of whom shall have experience in independent auditing and 1 of whom shall be a
21 representative of organized labor; 2 persons to be appointed by the president of the
22 Massachusetts Sheriffs Association, Inc.; and 2 persons to be appointed by the chief justice of
23 the supreme judicial court. Upon the expiration of the term of an appointed member, the
24 member's successor shall be appointed in a like manner for a term of 3 years. Irregular vacancies
25 shall be filled by appointment to an unexpired term. Ten members shall constitute a quorum and
26 all appointees and ex-officio members shall be voting members. The board shall annually elect a
27 chair from among its members and shall be supported by the executive office for administration
28 and finance. Chapter 268A shall apply to all board members.

29 The chair shall hold meetings at least quarterly, 1 of which shall be an annual meeting,
30 and shall notify all board members and sheriffs of the time and place of all meetings. Special
31 meetings may be called at any time by a majority of the board members and shall be called by
32 the chair upon written application of 8 or more members. Members of the board shall receive no

33 compensation, but shall receive their expenses actually and necessarily incurred in the discharge
34 of their duties.

35 The sheriffs and any other interested parties shall have the opportunity to address the
36 board during its meetings and to provide written information to the board for its consideration.

37 The board shall make a report, at least 60 days before July 31 of every even-numbered
38 year and file a copy thereof with the governor, the clerks of the house and senate, the senate and
39 house committees on ways and means, the joint committee on public safety and homeland
40 security, the joint committee on the judiciary and the joint committee on state administration and
41 regulatory oversight.

42 SECTION 2. Section 3B of chapter 7 of the General Laws, as so appearing, is hereby
43 amended by inserting after the words “employees thereof”, in line 12, the following words:- ;
44 provided, however, that the cost of meals for employees of the sheriff’s departments shall be
45 subject to collective bargaining agreements.

46 SECTION 3. Section 3 of chapter 32 of the General Laws, as so appearing, is hereby
47 amended by inserting after the word “prisoners”, in line 275, the following words:-

48 and any deputy engaged in civil process enforcement activities that involve the acts of
49 arrest, eviction or seizure of property, who is regularly assigned to such enforcement duties for
50 more than 20 hours per week, and who is defined by section 3A of chapter 37 as a full-time
51 employee of the Sheriff.

52 SECTION 4. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby
53 amended by inserting after the word “county”, in line 18, the following words:- , the offices of
54 the sheriffs.

55 SECTION 5. Chapter 37 of the General Laws is hereby amended by inserting after
56 section 3 the following 2 sections:-

57 Section 3A. (a) Each sheriff shall establish a civil process office within the sheriff’s
58 department and shall assign deputies appointed pursuant to section 3 who, along with the sheriff,
59 shall serve and execute within their counties, including within the political boundaries of the
60 previously abolished county governments, and where the commonwealth is a party or interested,
61 all precepts lawfully issued to them and all other process required by law to be served by an
62 officer pursuant to section 11 of chapter 37. The civil process office established within the
63 sheriff’s department shall be the exclusive entity performing sheriff’s civil process duties under
64 section 11 of chapter 37. A deputy assigned to serve process may do so in cases in which a
65 county, city, town, parish, religious society, fire or other district is a party or interested, although
66 the deputy is an inhabitant or member thereof. The sheriff may also appoint employees to work
67 in the sheriff’s civil process office. All deputies and employees of the process office shall serve
68 at the will and the pleasure of the sheriff. A deputy who ceases to be assigned to or to perform
69 civil process duties, either as an employee or as a contracted deputized process server, shall be
70 decommissioned as a deputy as provided by law and shall immediately return all equipment and
71 property issued to that person by the sheriffs’ department.

72 (b) Deputies and other employees of the process office, who are salaried or hourly
73 employees and who devote 20 hours or more per week to assigned duties, shall be state

74 employees under chapters 32, 32A, 150E, 152, 258, 268A and 268B and shall be compensated in
75 accordance with this subsection and subsection (c).

76 (c) Subject to the following limitations, the sheriff shall have power and authority as
77 employer in all matters related to civil process deputies and employees including, but not limited
78 to, hiring, firing, promotion, discipline, work-related injuries and internal organization of the
79 department. No sheriff, deputy or employee shall serve process for anyone except the sheriff.
80 The sheriff or an assigned deputy or contracted deputized process server may serve process
81 outside regular business hours. Sheriffs and non-commission full-time deputies and employees
82 may receive only a salary or hourly wage and shall not receive a commission or any portion of
83 any fee for service of process, no matter when the service is performed. Except for appointed or
84 sworn deputy sheriffs contracted to serve civil process, sheriffs, deputy sheriffs and employees
85 who are part-time shall not be paid a commission or any portion of any fee for service of process
86 performed during hours for which the sheriff, deputy or employee is being compensated by
87 federal, state, county or municipal funds. The annual salary, cumulative hourly wage,
88 commissions or the cumulative portion of any fees for service of process of any individual
89 deputy, employee or contracted deputized process server shall not exceed the annual salary of the
90 sheriff.

91 (d) In addition to any other training and certification required by law, a deputy sheriff
92 who performs civil process duties, including, but not limited to, enforcement duties, shall be
93 sworn and shall complete a civil process officers certification program pursuant to a policy and
94 curriculum that shall be adopted and approved by the Massachusetts Sheriffs Association, Inc.
95 and the Massachusetts Deputy Sheriffs' Association. The civil process officers certification
96 program shall include training and orientation on all requirements of lawful service of process

97 and shall be conducted jointly by the Massachusetts Sheriffs Association, Inc. and the
98 Massachusetts Deputy Sheriffs' Association. Deputy sheriffs shall begin the civil process
99 officers certification program within 30 days after receiving appointment or being assigned civil
100 process duties and shall be re-certified annually after completing the program.

101 (e) All full-time deputy sheriffs and employees of the sheriff's civil process office,
102 including those deputy sheriffs and employees of the sheriff's civil process office who have been
103 transferred to the commonwealth, and who completed a 1 year probationary period of full time
104 employment, shall be granted under this subsection, without impairment, full benefits for
105 vacation and sick time earned from their original commencement of employment in the sheriff's
106 civil process office not to exceed those of other state employees.

107 Section 3B. No sheriff, deputy or employee, nor any other individual or entity shall have
108 or acquire any legal right to the tangible or intangible property of the civil process office, nor any
109 revenue derived from fees collected from the service of process or any proceeds from the sale of
110 the property within the process office, other than compensation as determined pursuant to this
111 chapter.

112 Except as otherwise provided in this chapter, all fees derived from service of process
113 shall be used solely for the operation of the sheriff's civil process office. All tangible and
114 intangible property shall belong to the state and shall be under the sole possession and control of
115 the sheriff.

116 SECTION 6. Said chapter 37 of the General Laws is hereby further amended by striking
117 out section 11 and inserting in place thereof the following section:-

118 Section 11. (a) The Massachusetts Sheriffs Association, Inc. shall establish a system by
119 which all process fees are reported and recorded and shall develop and adopt policies and
120 procedures to be approved by the comptroller and the secretary of administration and finance
121 which shall be referenced in an internal control plan kept by each sheriff's office. Information
122 about each request for process to be served that is received by the sheriff's civil process office
123 shall be reported and recorded in the system within 30 days of when the information becomes
124 available and shall include, but not be limited to, the following information for each piece of
125 process to be served: (i) the title of the action, including court name and docket number; (ii) the
126 date the process was issued or required to be served; (iii) the type of process; (iv) the name and
127 address of the person requesting that process be served; (v) the name and address of the person
128 or location upon which service is to be made; (vi) the fee charged; (vii) the date of billing to
129 collect the fee; (viii) the date of fee collected; (ix) the date service was made; (x) the manner of
130 service; (xi) the amount of commission paid, if any; and (xii) the name of the person performing
131 service and, if different, the name of the person or entity to whom the commission was paid.

132 (b) A summary of the information contained in subsection (a) shall be compiled and
133 reported in writing to the comptroller and the secretary of administration and finance by the
134 sheriff annually not later than September 30.

135 (c) Administrative costs associated with the recording of information prescribed under
136 subsection (a) and prepared under subsection (b), including expenditures for personnel or the
137 purchase of equipment required to perform the recording of information, may be paid from the
138 civil process account or any other account established for the operation of the sheriff's office.

139 (d) In addition to the requirements in subsection (a), annual reports filed pursuant to
140 subsection (b) shall include, but not be limited to, completed, itemized schedules of the
141 following information: (i) assets, including cash, deposits, accounts receivable and the value of
142 the property and equipment; (ii) liabilities, including accounts payable, client escrow deposits,
143 capital lease obligations and all other debts; (iii) income derived from the service of process and
144 otherwise; (iv) expenses paid, including payroll, commissions and all other expenses; and (v) any
145 surplus from the sheriff's civil process account that has been transferred to an account as
146 authorized by law.

147 SECTION 7. Section 14 of said chapter 37, as so appearing, is hereby amended by
148 striking out the words "They may execute precepts in their hands at the time of their removal
149 from office; and, upon" and inserting in place thereof the following word:- Upon.

150 SECTION 8. Said chapter 37 is hereby further amended by inserting after section 14 the
151 following section:-

152 Section 14A. Upon the removal of a deputy sheriff by the sheriff, the removed deputy
153 shall immediately return to the sheriff's civil process office all process and other documents
154 received or in the deputy sheriff's possession, along with any fees collected. If a deputy or
155 former deputy fails to comply with this section, the sheriff shall institute legal proceedings to
156 enforce this section or any other section in this chapter.

157 SECTION 9. Said Chapter 37 is hereby further amended by striking out section 22 and
158 inserting in place thereof the following section:-

159 Section 22. Each sheriff shall keep an account of all fees and money received from any
160 source by virtue of the sheriff's office on the state's accounting system as prescribed by the
161 comptroller.

162 SECTION 10. Said Chapter 37 is hereby further amended by inserting after section 22
163 the following section:-

164 Section 22A. (a) Notwithstanding section 22 of chapter 35, all fees and other revenues
165 collected by the process office shall be revenue of the commonwealth as defined by chapter 29.
166 All fees and revenues shall be deposited in bank accounts and accounted for on the books and
167 records of the commonwealth in accordance with policies and procedures of the state treasurer
168 and comptroller. The civil process accounts shall be kept separate from other accounts, shall
169 continue without further appropriation and shall be used only for the operation of the process
170 office or for activities that the sheriffs are statutorily authorized to perform. Expenditures shall
171 be authorized by the sheriff in accordance with state guidelines without further appropriation.
172 Any balance in the account at the close of the fiscal year shall be retained in the account and
173 made available in the subsequent fiscal year.

174 (b) Payroll and all other bills of the civil process office shall be paid from the process
175 account; provided, however, that after all civil process revenue has been expended for payroll
176 and other bills of the civil process office, a sheriff may use funding from a fiscal year budgetary
177 appropriation to pay payroll and all other civil process expenses.

178 (c) Notwithstanding subsection (a), contributions from paychecks issued to deputy
179 sheriffs and employees of the sheriff's civil process office who are members in service of the
180 state retirement system, shall be deducted and forwarded to the state treasurer. The amounts

181 deducted shall be determined in accordance with chapter 32 and any other rules and regulations
182 promulgated thereunder.

183 (d) Notwithstanding subsection (a), premiums from paychecks of deputy sheriffs and
184 employees of the sheriff's civil process office who are insured under chapter 32A shall be
185 deducted and forwarded to the state treasurer. The amounts deducted shall be determined in
186 accordance with chapter 32A and any other rules and regulations promulgated thereunder.

187 (e) Annually, not later than 75 days after the close of the fiscal year, the sheriff shall
188 render a sworn statement of account to the state treasurer, the secretary of administration and
189 finance and the house and senate committees on ways and means.

190 (f) Notwithstanding subsection (a), no funds held in a civil process account shall be used
191 for payment of liability expenses incurred by the sheriff's civil process office pursuant to chapter
192 258 or for payments to employees pursuant to chapter 152. Any judgment, settlement or
193 attorney's fees incurred as a result of litigation concerning the process office shall be paid in
194 accordance with chapter 258 in the same manner as any other claim, judgment, settlement or
195 attorney's fees paid by the sheriff's office.

196 (g) In the event revenues collected from civil process fees are deemed insufficient to
197 cover the costs of operating of the process office, the sheriff shall notify the house and senate
198 committees on ways and means and the secretary of administration and finance in writing of the
199 projected deficiency and the reasons for such deficiency not later than 30 days in advance of the
200 projected deficiency.

201 SECTION 11. Chapter 126 of the General Laws is hereby amended by inserting after
202 section 18A the following section:-

203 Section 18B. Injuries to Deputy Sheriffs and Employees of Sheriff’s Civil Process Office.

204 Whenever a deputy sheriff or other employee of a sheriff’s civil process office who, due
205 to no fault of his own, while in the performance of duty, receives bodily injury from an act of
206 violence by a person connected with the proceeding for which service of process was attempted
207 or served, and who is incapacitated for duty because of the injury sustained, shall be paid, in
208 addition to benefits paid under chapter 152, the difference between the weekly cash benefits to
209 which he is entitled under chapter 152 and his regular salary. Any absence from work due to the
210 injury shall not be charged against the employee’s available sick leave credits, even if the
211 absence is for less than 8 calendar days. This section does not apply to injuries sustained during
212 work for which a deputy or employee is being paid commission.

213 All amounts payable under this section shall be paid at the same times and in the same
214 manner as, and for all purposes shall be deemed to be the deputy or employee’s regular
215 compensation. If a person or entity is liable for monetary damages for an injury of a deputy
216 sheriff or other employee of a sheriff’s civil process for which he is compensated under this
217 section, the deputy, employee, or sheriff’s department that is paying compensation under this
218 section, may proceed to enforce the liability of such person or entity in any court of competent
219 jurisdiction. Any sum recovered shall be for the benefit of the sheriff’s department that is paying
220 such compensation, unless the sum is greater than the compensation paid to the injured person, in
221 which case the excess shall be retained by or paid to the injured person. For the purposes of this
222 section, “excess” shall mean the amount by which the total sum received as damages for the
223 injury, exclusive of interest and costs, exceeds the amount paid under this section as
224 compensation to the injured person. The party bringing the action shall be entitled to any costs
225 recovered by him. Any interest received in the action shall be apportioned between the sheriff’s

226 department and the injured person in proportion to the amounts received by them respectively,
227 inclusive of interest and costs. The expense of any attorney's fees shall be divided between the
228 sheriff's department and the injured person in proportion to the amounts received by them
229 respectively.

230 Any person or entity, who injures a deputy sheriff or other employee of a sheriff's civil
231 process office who is compensated under this section for the injury, shall be liable in tort to the
232 sheriff's department that is paying the injured person, for all costs, in excess of the amount of
233 compensation paid, that are incurred by the sheriff's department to replace the injured person.

234 SECTION 12. Chapter 262 of the General Laws is hereby amended by striking out
235 section 8A and inserting in place thereof the following section:-

236 Section 8A. Each constable shall annually, not later than April 15, file with the municipal
237 treasurer an account signed under the pains and penalties of perjury of all fees and money
238 received by the constable under section 8 for the service of civil process. If 2 or more constables
239 share such fees and money, such constables may file a joint account; provided, however, that
240 each constable signs the account under the pains and penalties of perjury.

241 Each deputy sheriff shall annually, not later than 30 days after the close of the fiscal year,
242 file with the sheriff and the state treasurer an account signed under the pains and penalties of
243 perjury of all fees and money received by the deputy sheriff under section 8 for the service of
244 civil process. If 2 or more deputy sheriffs share such fees and money, such deputy sheriffs may
245 file a joint account; provided, however, that each deputy sheriff shall sign the account under the
246 pains and penalties of perjury.

247 On a schedule determined by the sheriff, but at least quarterly, each deputy sheriff who
248 serves process shall file a written report to the sheriff, made under the pains and penalties of
249 perjury and in a form prescribed by the sheriff, detailing information relative to the service of
250 civil process in their respective jurisdictions pursuant to section 11 of chapter 37.

251 SECTION 13. Subject to appropriation, the human resources division shall conduct, in
252 consultation with the sheriffs and Massachusetts Sheriffs Association, Inc., a comprehensive
253 assessment that will lead to statewide standards for classification, recruitment, promotion,
254 compensation and professional standards for all sheriffs' offices. The assessment shall include,
255 but is not limited to, standardizing job titles and classification, job postings, minimum testing
256 requirements and other employment practices. The human resources division shall issue a report
257 of its assessment by April 30, 2025 and require that implementation of the standards shall begin
258 not later than September 1, 2025. A copy of the human resources division's assessment report
259 shall be sent to the chairs of the joint committee on state administration and regulatory oversight,
260 the chairs of house and senate ways and means, the clerks of the house and senate, the chairs of
261 the joint committee on public safety and homeland security, the secretary of administration and
262 finance and the secretary of public safety and security.