

LD4166320

HOUSE BILL NO. 1810

Offered January 19, 1995

A BILL to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 10.1:3, consisting of sections numbered 2.1-116.9:7 through 2.1-116.9:11, relating to deputy sheriffs' procedural guarantees.

Patrons—Keating, Hall, Plum, Puller, Robinson and Stump; Senator: Howell

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 10.1:3, consisting of sections numbered 2.1-116.9:7 through 2.1-116.9:11 as follows:

CHAPTER 10.1:3

DEPUTY SHERIFFS' PROCEDURAL GUARANTEES.

§ 2.1-116.9:7. Definitions.

"Sheriff's department" means a department, bureau or force of any political subdivision of the Commonwealth where such department, bureau or force is headed by the sheriff of the political subdivision and which has seven or more deputy sheriffs.

"Deputy sheriff" means any person, other than the sheriff, who in his official capacity is authorized by law to make arrests and who is a nonprobationary member of a sheriff's department.

§ 2.1-116.9:8. Sheriff's department; notice of charges; election to proceed under grievance procedure of local governing body.

Before any dismissal, demotion, disciplinary transfer or suspension without pay may be imposed in any sheriff's department, the following shall be complied with:

1. The deputy sheriff shall be notified in writing of all charges, of the evidentiary basis therefor, and of the action which may be taken;

2. Within a reasonable time after receiving this written notice, the deputy sheriff shall be given an opportunity to review the evidentiary basis for the charges and an opportunity to respond orally and in writing to the charges. The time period shall be determined by the sheriff's department, but in no event shall such period be less than five days, unless agreed to by the deputy sheriff;

3. In responding, the deputy sheriff may be assisted by a representative, including legal counsel, at the deputy sheriff's expense.

§ 2.1-116.9:9. Hearings.

A. Whenever a deputy sheriff is dismissed, demoted, suspended or transferred for punitive reasons, he may, following such action and within a reasonable time as established by the sheriff's department, request a hearing. If such request is timely made, the hearing shall be held no later than fourteen days following the date of request unless a later date is agreed to by the deputy sheriff. At the hearing, the deputy sheriff and his department shall be allowed to present evidence and to examine and cross-examine witnesses.

The deputy sheriff shall be given the opportunity to be represented by counsel at the hearing unless such deputy sheriff and department are afforded, by regulation, the right to counsel in a subsequent de novo hearing. A record shall be made of the hearing.

B. The hearing shall be conducted by a panel; the panel shall consist of: one member from within the department selected by the deputy sheriff; one member from within the department of a rank equal to or no more than two ranks above that of the deputy appointed by the sheriff; and a third member from within the department selected by the other two members. In the event that such two members cannot agree upon a third member, the chief judge of the appropriate circuit court shall choose the third member. The panel shall have the power to, and on the request of either the deputy sheriff or his department shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The panel shall rule on the admissibility of all evidence to be presented to the hearing.

§ 2.1-116.9:10. Decision of the panel.

The decision of the panel, and the reasons thereof, shall be in writing and shall be transmitted promptly to the deputy sheriff or his attorney and to the sheriff. This decision shall be final and binding on all parties. Should any party fail to adhere to the decision of the panel, the other party may enforce the decision in the appropriate circuit court.

§ 2.1-116.9:11. Chapter affords minimum rights.

The rights accorded deputy sheriffs under this chapter are minimum rights and all sheriffs'

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**60** *departments shall promulgate grievance procedures not inconsistent herewith. Any such department may*  
**61** *provide additional procedural guarantees.*