REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 5, 16)

S.B. 381

SENATE BILL NO. 381–SENATORS OHRENSCHALL; AND STONE

MARCH 17, 2025

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to governmental administration. (BDR 20-1076)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 22)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[**~~omitted material~~**]** is material to be omitted.

AN ACT relating to governmental administration; authorizing a sheriff or constable to appoint a civil enforcement officer; authorizing the electronic sale of real property under execution; authorizing a sheriff or constable to enter into a contract to conduct such a sale; revising certain fees to which a sheriff or constable is entitled for certain services; revising the powers and duties of certain persons under the direction and supervision of a constable or sheriff; revising the powers and duties of sheriffs, constables and deputy constables; revising the qualifications of constables; eliminating the authority of certain boards of county commissioners to abolish the office of constable in certain townships; revising provisions relating to the service, execution and enforcement of certain process, writs and remedies; revising provisions relating to duties required of certain officers for unlawful or riotous assemblies; repealing a provision authorizing a magistrate to depute a person to act as constable under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a sheriff to appoint one or more deputies who are authorized to perform all the duties devolving on the sheriff of the county and such other duties as the sheriff may from time to time direct. (NRS 248.040) **Section 2**

of this bill authorizes a sheriff to appoint civil enforcement officers who are authorized to perform certain duties of the sheriff relating to the service, posting and enforcement of certain notices and writs. **Section 7** of this bill similarly authorizes a constable to appoint such officers. **Section 25** of this bill provides that a civil enforcement officer is not governed by certain provisions set forth in existing law for the licensure and regulation of process servers who are not peace officers. (NRS 648.014)

Existing law further provides that a person who is employed as clerical or operational staff of a constable does not have the powers of a peace officer and prohibits such a person from possessing or carrying a weapon or concealed firearm while performing his or her official duties. (NRS 258.065) **Section 9** of this bill makes such provisions, with certain exceptions, applicable to any person who works under the direction and supervision of a constable, including, without limitation, an appointee, employee, contractor or volunteer of the constable and removes the prohibition for such persons to possess or carry a weapon while performing his or her official duties. **Section 14** of this bill removes language made duplicative by the provisions of **section 9**.

Existing law requires all sales of property under execution to be made at auction to the highest bidder and requires such an auction to take place between the hours of 9 a.m. and 5 p.m. at the courthouse of the county in which the property or some part thereof is situated. (NRS 21.150) **Section 19** of this bill authorizes such a sale of real property to be conducted on the Internet website of an operator of an online auction for real property or other electronic means. **Sections 3 and 8** of this bill authorize a sheriff and constable, respectively, to enter into a contract with such an operator to sell the property by an auction conducted on the Internet website of the operator or other electronic means.

Existing law requires a sheriff to take property which is the subject of a claim to delivery and described in a writ of possession if it is in the possession of a defendant or an agent of the defendant and retain it in his or her custody. (NRS 31.840, 31.870) If the property, or any part of the property, is concealed in a building or enclosure, existing law requires the sheriff to publicly demand delivery of the property. If the property is not delivered, existing law requires the sheriff to cause the building or enclosure to be broken open and to take the property and authorizes, if necessary, the sheriff to call the power of the sheriff's county to his or her aid. (NRS 31.920) **Sections 4 and 10** of this bill provide that a sheriff or constable is subject to such requirements after the receipt of any writ or order that directs the sheriff or constable to take the property described in it. **Section 27** of this bill repeals a provision concerning writs of possession which is made duplicative by the provisions of **sections 4 and 10**.

Existing law authorizes the sheriff of each county in this State to charge and collect certain fees for certain services provided by the sheriff. (NRS 248.275) **Section 5** of this bill revises such fees. **Section 16** of this bill similarly revises the fees that a constable is entitled to for certain services provided by the constable. (NRS 258.125) **Section 15** of this bill makes conforming changes to remove references to provisions that were relocated to **sections 5 and 16**. **Sections 17, 23 and 24** of this bill make conforming changes to reflect the renumbering and relocation of certain fees.

Section 11 of this bill removes a requirement for each constable of a township whose population is 15,000 or more, or a township that has within its boundaries a city whose population is 15,000 or more, to become certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment.

Existing law: (1) requires any person who is a candidate for the office of constable in a township whose population is 100,000 or more to be certified by the

Commission as a category I or category II peace officer before filing a declaration of candidacy for the office; and (2) provides that a constable forfeits his or her office if he or she does not maintain such a certification. (NRS 258.007) **Section 11** instead: (1) requires that a person who is a candidate for the office of constable in a township whose population is 100,000 or more in a county whose population is 100,000 or more to be certified by the Commission as a category I or category II peace officer before filing a declaration of candidacy for the office; and (2) provides that a constable forfeits his or her office if he does not maintain such a certification.

Existing law authorizes a constable to appoint deputies who are authorized to transact all official business pertaining to the office to the same extent as their principals and sets forth certain requirements for such a position, including a requirement for a person who is appointed as a deputy constable in certain townships to be certified by the Commission as a category I or category II peace officer before commencing his or her employment. (NRS 258.060) **Section 13** of this bill instead prohibits any deputy constable from being appointed unless he or she is so certified.

Existing law requires a constable or deputy constable who is authorized to carry a firearm to receive training approved by the Commission in the use of firearms at least once every 6 months. (NRS 258.070) **Section 15** requires such training to include any continuing education that addresses firearms and is required for a category II officer, including, without limitation, any requirements concerning the demonstration of a minimum level of proficiency in the use of firearms.

Section 15 further prohibits, with certain exceptions, a constable from executing any writ, warrant or other order of a court in a criminal case unless the writ, warrant or order is delivered to the constable for execution by certain appropriate persons.

Existing law authorizes the board of county commissioners in a county which includes only one township to, by resolution, appoint the sheriff ex officio constable to serve without additional compensation. Additionally, if a board of county commissioners in a county whose population is less than 700,000 (currently all counties other than Clark County) which includes more than one township or a county whose population is 700,000 or more (currently only Clark County) determines that the office of constable is not necessary in one or more townships, existing law authorizes a board of county commissioners to abolish the office of constable in a township and to appoint the sheriff ex officio constable. (NRS 258.010) **Section 12** of this bill instead authorizes a board of county commissioners in any county which includes more than one township to take such actions under such circumstances.

Existing law authorizes a constable to perform, with respect to certain provisions concerning writs of execution, garnishment and attachment, any of the duties assigned to a sheriff and provides that the constable has all of the authority granted to a sheriff with respect to such provisions. (NRS 21.111, 31.235) **Sections 18 and 20** of this bill instead provide that for certain provisions concerning remedies, including writs of attachment, garnishment and arrest and bail, as well as certain provisions concerning the enforcement of certain judgments including writs of execution or garnishment, a constable is authorized to perform any of the duties assigned to a sheriff and provides that the constable has all of the authority granted to a sheriff with respect to any process, writ or order in a civil case.

Existing law authorizes execution on a writ of garnishment to occur only if the sheriff mails a copy of the writ with a copy of the notice of execution to the defendant in a certain manner and provides that, in the case of a writ of garnishment that continues for 180 days or until the amount demanded in the writ is satisfied, a copy of the writ and the notice of execution need only be mailed once to the defendant. (NRS 31.260) **Section 21** of this bill instead: (1) requires the sheriff

to mail a copy of the writ of garnishment and the writ of execution with the copy of the notice of execution; and (2) provides that in the case of a writ of garnishment that continues for 180 days or until the amount demanded in the writ is satisfied, a copy of the writ of execution and the notice of execution need only be mailed once to the defendant.

Existing law requires, when six or more persons are unlawfully or riotously assembled in any town, the sheriff of the county and the sheriff's deputies or the constable of the town and the justice of the peace to: (1) go among the persons so assembled and command such persons in the name of the people of the United States and the State of Nevada, to disperse immediately; and (2) if such persons do not disperse, arrest them. Further, existing law provides that a magistrate or officer who neglects or refuses to proceed to the place of assembly and exercise such powers is guilty of a misdemeanor. (NRS 269.230) **Section 22** of this bill: (1) removes such a duty from a magistrate or constable; (2) places such a duty upon the chief of police or his or her peace officers; and (3) instead requires such a command to only be given in the name of the people of the State of Nevada.

Existing law authorizes a magistrate to depute in writing any suitable and discreet person to act as constable when no constable is at hand and the nature of the business requires immediate action. (NRS 171.116) Existing law additionally provides that any constable who willfully refuses to arrest any person charged with a criminal offense is guilty of a gross misdemeanor and requires such a constable to be removed from office. (NRS 258.110) **Section 27** repeals such provisions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 248 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. A sheriff may appoint civil enforcement officers, who are authorized to transact the business described in subsection 2. A civil enforcement officer must be at least 18 years of age. The appointment of a civil enforcement officer must not be construed to confer upon that civil enforcement officer policymaking authority for the office of the sheriff or the county by which the sheriff is employed.***

2. A civil enforcement officer appointed pursuant to this section may:

(a) Serve any civil process or post any public notice that the sheriff is authorized to serve or post, other than a writ of habeas corpus, including, without limitation, a letter of demand, summons, complaint, subpoena or eviction notice;

(b) Execute a writ of garnishment; and

(c) Post or enforce an order for removal of a tenant in a summary eviction action or a writ of restitution.

3. No civil enforcement officer is qualified to act as such unless he or she has taken an oath to discharge the duties of the office faithfully and impartially. The oath, together with the written appointment, must be recorded in the office of the recorder

of the county within which the sheriff legally holds and exercises office. Revocations of such appointments must be recorded as provided in this subsection. From the time of the recording of the appointments or revocations thereof, persons shall be deemed to have notice of the appointments or revocations.

4. The sheriff may require of his or her civil enforcement officers such bonds as the sheriff deems proper.

5. Nothing in this section shall be construed to confer upon a civil enforcement officer the powers of a peace officer pursuant to NRS 289.150 to 289.360, inclusive, or authorize a civil enforcement officer appointed pursuant to this section to:

(a) Serve any process in a criminal case or a writ of habeas corpus;

(b) Summon a jury;

(c) Enforce any order other than those described in subsection 2; or

(d) Execute an order of arrest.

Sec. 3. *1. A sheriff may enter into a contract with an operator of an online auction for real property to sell real property under execution pursuant to NRS 21.150 by an auction conducted on the Internet website of the operator or other electronic means.*

2. Nothing in this section shall be construed to relieve the sheriff of any duty to provide notice concerning the sale of such property pursuant to chapter 21 of NRS or authorize the sheriff to delegate such duties to the operator of an online auction for real property.

3. As used in this section, "operator of an online auction for real property" means a person or entity who is engaged in the business of holding, conducting or carrying on an auction for real property by electronic means.

Sec. 4. *1. If, after the receipt of any writ or order that directs a sheriff to take the property described in the writ or order, the property, or any part thereof, is concealed in a building or enclosure, the sheriff shall publicly demand delivery of the property. If the property is not delivered, the sheriff shall cause the building or enclosure to be broken open, and take the property into his or her possession.*

2. If necessary to carry out the provisions of this section, the sheriff may call to his or her aid the power of the county of the sheriff.

Sec. 5. NRS 248.275 is hereby amended to read as follows:

248.275 1. The sheriff of each county in this State may charge and collect the following fees ~~[~~:

~~For serving~~] ***relating to an action before any court of justice in this State:***

(a) A fee of $26 for:

(1) Subject to the limitations provided in subsection 2 and except as otherwise provided in this section, serving any rule or order of the court or civil process other than a writ of habeas corpus, including, without limitation, a ***letter of demand,*** summons ***,*** ~~[or]~~ complaint, ***subpoena*** or ~~[any other process, by which an action or proceeding is commenced, except as a writ of habeas corpus, on every defendant ..... $17~~

~~For traveling and making such service, per mile in going only, to be computed in all cases the distance actually traveled, for each mile ..... 2~~

~~If any two or more papers are required to be served in the same suit at the same time, where parties live in the same direction, one mileage only may be charged.~~

~~For taking~~] ***venire.***

(2) Making and posting notices and advertising for sale, on execution or any judgment or order of sale, not to include the cost of publication in a newspaper.

(3) Taking a bond or undertaking in any case in which the sheriff is authorized to take a bond or undertaking ***.*** ~~[..... 5~~

~~For a copy of any writ, process or other paper, if demanded or required by law, for each page ..... 3~~

~~For serving every rule or order ..... 15~~

~~For~~]

(4) Except as otherwise provided in this subparagraph, serving ~~[one]~~ ***a*** notice required by law before the commencement of a proceeding for any type of eviction ***.*** ~~[..... 26~~

~~For serving not~~] ***If the sheriff serves:***

(I) Not fewer than 2 nor more than 10 such notices to the same location, ***the sheriff may charge and collect a fee of $20 for*** each notice ***.*** ~~[..... 20~~

~~For serving not~~]

(II) Not fewer than 11 nor more than 24 such notices to the same location, ***the sheriff may charge and collect a fee of $17 for*** each notice ***.*** ~~[..... 17~~

~~For serving 25~~]

(III) Twenty-five or more such notices to the same location, ***the sheriff may charge and collect a fee of $15 for*** each notice **.** [~~..... $15~~

~~For mileage in serving such a notice, for each mile necessarily and actually traveled in going only..... 2~~]

➥ But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.

[~~For each service in a summary eviction, except service of any notice required by law before the commencement of the proceeding, and for serving notice of and executing a writ of restitution..... 21~~

~~For serving a subpoena, for each witness summoned..... 15~~

~~For traveling, per mile in serving subpoenas, or a venire, in going only, for each mile..... 2~~

~~When two or more witnesses or jurors live in the same direction, traveling fees must be charged only for the most distant.~~

~~For serving an attachment on property, or levying an execution,~~]

(5) Executing any order of a court in a civil case, including, without limitation, any writ issued by the court, any order for the removal of a tenant in a summary eviction action or [~~executing~~] an order of arrest **.** [~~or order for the delivery of personal property, together with traveling fees, as in cases of summons..... 15~~

~~For making and posting notices and advertising for sale, on execution or any judgment or order of sale, not to include the cost of publication in a newspaper..... 15~~

~~For issuing~~]

(6) Issuing each certificate of sale of property on execution or order of sale, and for recording the original certificate with the county recorder, which must be collected from the party receiving the certificate **.** [~~..... 5~~

~~For drawing~~]

(7) Drawing and executing every sheriff's deed, to be paid by the grantee, who shall in addition pay for the acknowledgment thereof **.** ~~[..... $20 For serving]~~

(b) Except as otherwise provided in subsection 5, a ***fee of $3 for:***

(1) Each page of a copy of any writ ~~[of possession]~~ **,** ***process*** or ~~[restitution, putting any person into possession entitled thereto ..... 21 For traveling]~~ ***other paper, if demanded or required by law.***

(2) Subject to the limitations provided in this subsection and subsection 2, each mile necessarily and actually traveled, for going only, in ***carrying out*** the service ***or execution*** of any ~~[process, not otherwise provided in this section, for each mile necessarily traveled, for going only, for each mile ..... 2]~~ ***rule, order, notice or civil process described in paragraph (a). If the sheriff is unable to serve or enforce the document, the sheriff must not charge a fee which exceeds $30.***

(3) For mailing a notice of a writ of execution **.** ~~[..... 2~~

~~➥ The sheriff may charge and collect $2 per mile traveled, for going only, on all papers not served, where reasonable effort has been made to effect service, but not to exceed $20.~~

~~2. The sheriff may also charge and collect:~~

~~(a)]~~ ***(c)*** For commissions for receiving and paying over money ~~[on]~~ ***:***

(1) On execution or process, where lands or personal property have been levied on, advertised or sold, on the first $500, 4 percent; on any sum in excess of $500, and not exceeding $1,000, 2 percent; on all sums above that amount, 1 percent ~~[.~~

~~(b) For commissions for receiving and paying over money on]~~ ***;***

or

(2) On executions without levy, or where the lands or goods levied on are not sold, on the first $3,500, 2 percent, and on all amounts over that sum, one-half of 1 percent ~~[.~~

~~(c)]~~ **,**

➥ ***which must be collected from the defendant.***

(d) For service of any process in a criminal case, or of a writ of habeas corpus, the same mileage as in civil cases, to be allowed, audited and paid as are other claims against the county.

~~[(d)]~~ ***(e)*** For all services in justice courts, the same fees as are allowed in ~~[subsection 1 and paragraphs (a), (b) and (c) of]~~ this subsection.

(f) For providing services pursuant to subsection 7 of NRS 258.070, the same fees that a constable of the township in which the justice court is held would receive for the same service, which must be collected in the same manner.

(g) For providing any service which is not described in this subsection or otherwise provided for in law, a fee which is established by ordinance by the board of county commissioners.

2. If a sheriff charges and collects a fee:

(a) For serving or executing any notices or civil process pursuant to paragraph (a) of subsection 1, if more than two notices, summons, subpoenas or other civil process in the same case are served at the same general location during the same calendar day, the sheriff must charge only mileage for the service of one notice.

(b) For mileage for serving a subpoena or a venire pursuant to paragraph (b) of subsection 1 or in a criminal case, if two or more witnesses or jurors live in the same direction, the sheriff must charge only fees for mileage to the most distant witness or juror.

3. The sheriff is also entitled to further compensation for his or her trouble and expense in taking possession of property under attachment, execution or other process and of preserving the property ***.*** ~~[, as the]~~ ***The*** court ~~[from]~~ which ***issued*** the writ or order ~~[may issue certifies to be]~~ ***shall issue an order to require the defendant to compensate the sheriff for the costs that the court determines are*** just and reasonable ~~[.]~~ ***upon receipt of an affidavit from the sheriff which lists such expenses and asserts that the expenses are accurate and were necessary.***

4. ~~[In service of a subpoena or a venire in criminal cases, the sheriff is entitled to receive mileage for the most distant only, where witnesses and jurors live in the same direction.~~

~~5.]~~ The fees allowed for the levy of an execution, for advertising and for making and collecting money on an execution or order of sale, must be collected from the defendants, by virtue of the execution or order of sale, in the same manner as the execution is directed to be made.

5. A board of county commissioners may provide by ordinance for a flat fee, which may be paid by a defendant in lieu of the travel costs described in subparagraph (2) of paragraph (b) of subsection 1.

6. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, all fees collected by a sheriff ***, other than fees which may be retained as compensation,***

must be paid into the county treasury of his or her county on or before the fifth working day of the month next succeeding the month in which the fees are collected.

Sec. 6. Chapter 258 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this act.

Sec. 7. ***1. A constable may appoint civil enforcement officers, who are authorized to transact the business described in subsection 2. A civil enforcement officer must be at least 18 years of age. The appointment of a civil enforcement officer must not be construed to confer upon that civil enforcement officer policymaking authority for the office of the constable or the county by which the constable is employed.***

2. A civil enforcement officer appointed pursuant to this section may:

(a) Serve any civil process or post public notice that the constable is authorized to serve or post, other than a writ of habeas corpus, including, without limitation, a letter of demand, summons, complaint, subpoena or eviction notice;

(b) Execute a writ of garnishment; and

(c) Post or enforce an order for removal of a tenant in a summary eviction action or a writ of restitution.

3. No civil enforcement officer is qualified to act as such unless he or she has taken an oath to discharge the duties of the office faithfully and impartially. The oath, together with the written appointment, must be recorded in the office of the recorder of the county within which the constable legally holds and exercises office. Revocations of such appointments must be recorded as provided in this subsection. From the time of the recording of the appointments or revocations thereof, persons shall be deemed to have notice of the appointments or revocations.

4. A constable is responsible for the compensation of a civil enforcement officer appointed pursuant to this section and is responsible on his or her official bonds for all official malfeasance of the same. A constable may require a civil enforcement officer to post a bond for the faithful performance of his or her official duties.

5. Nothing in this section shall be construed to confer upon a civil enforcement officer the powers of a peace officer pursuant to NRS 289.150 to 289.360, inclusive, or authorize a civil enforcement officer appointed pursuant to this section to:

(a) Serve any process in a criminal case or a writ of habeas corpus;

(b) Summon a jury;

(c) Enforce any order other than those described in subsection 2; or

(d) Execute an order of arrest.

Sec. 8. ***1. A constable may enter into a contract with an operator of an online auction for real property to sell real property under execution pursuant to NRS 21.150 by an auction conducted on the Internet website of the operator or other electronic means.***

2. Nothing in this section shall be construed to relieve the constable of any duty to provide notice concerning the sale of such property pursuant to chapter 21 of NRS or authorize the constable to delegate such duties to the operator of an online auction for real property.

3. As used in this section, "operator of an online auction for real property" means a person or entity who is engaged in the business of holding, conducting or carrying on an auction for real property by electronic means.

Sec. 9. ***Except as otherwise provided in NRS 258.070, no person who works under the direction and supervision of a constable, including an appointee, employee, contractor or volunteer of the constable:***

1. Has the powers of a peace officer.

2. May, while performing the duties of his or her position or any other duties of the office of the constable, possess or carry a firearm, as defined in NRS 202.253, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive.

Sec. 10. ***1. If, after the receipt of a writ or order that directs a constable to take the property described in the writ or order, the property, or any part thereof, is concealed in a building or enclosure, the constable shall publicly demand delivery of the property. If the property is not delivered, the constable shall cause the building or enclosure to be broken open, and take the property into his or her possession.***

2. If necessary to carry out the provisions of this section, the constable may call to his or her aid the power of the county of the constable.

Sec. 11. NRS 258.007 is hereby amended to read as follows:

258.007 1. ~~[Except as otherwise provided in subsection 2, each constable of a township whose population is 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more shall become certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the~~

~~Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.~~

~~2. Any~~ ***In a county whose population is 100,000 or more, any*** person who is a candidate for the office of constable in a township whose population is 100,000 or more must be certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer before filing a declaration of candidacy for the office. A person who does not comply with the provisions of this subsection is not eligible to be a candidate for the office of constable.

~~3.~~ ***2.*** A constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030 if the constable ~~:~~

~~(a) Does not become certified by the Peace Officers' Standards and Training Commission as required pursuant to subsection 1; or~~

~~(b) Does~~ ***does*** not maintain the certification by the Peace Officers' Standards and Training Commission required pursuant to subsection 1 ~~or 2~~ during his or her term of office.

Sec. 12. NRS 258.010 is hereby amended to read as follows:

258.010 1. Except as otherwise provided in subsections 2 and 3:

(a) Constables must be elected by the qualified electors of their respective townships.

(b) The constables of the several townships of the State must be chosen at the general election of 1966, and shall enter upon the duties of their offices on the first Monday of January next succeeding their election, and hold their offices for the term of 4 years thereafter, until their successors are elected and qualified.

(c) Constables must receive certificates of election from the boards of county commissioners of their respective counties.

2. In a county which includes only one township, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation. The resolution must not become effective until the completion of the term of office for which a constable may have been elected.

3. In a county ~~whose population:~~

~~(a) Is less than 700,000,~~ which includes more than one township, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office of constable in those townships.

~~(b) Is 700,000 or more, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office in those townships.~~

~~.~~] For a township in which the office of constable has been abolished, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation.

Sec. 13. NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment ~~[. A person who is appointed as a deputy constable in a township whose population is 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more may not commence employment as a deputy constable until the person]~~ ***and*** is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer. The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. If a constable of an office established by the board of county commissioners as an enterprise fund appoints a deputy, the compensation of the deputy must be approved by the board of county commissioners.

4. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded within 30 days after the appointment in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section within 30 days after the revocation of the appointment. From the time of the filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

Sec. 14. NRS 258.065 is hereby amended to read as follows:

258.065 1. The constable of a township may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff as the work of the constable requires. The compensation of any person so appointed must be fixed by the board of county commissioners.

2. ~~[A person who is employed as clerical or operational staff of a constable:~~

~~(a) Does not have the powers of a peace officer; and~~

~~(b) May not possess a weapon or carry a firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.~~

~~3.]~~ The board of county commissioners may appoint for the constable of a township a reasonable number of clerks. The compensation of any clerk so appointed must be fixed by the board of county commissioners.

~~[4.]~~ ***3.*** A constable's clerk shall take the constitutional oath of office and give bond in the sum of $2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

~~[5.]~~ ***4.*** A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

Sec. 15. NRS 258.070 is hereby amended to read as follows:

258.070 1. Subject to the provisions of subsections 2 and 3, each constable shall:

(a) Be a peace officer.

(b) Execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the constable for that purpose.

(c) Discharge such other duties as are or may be prescribed by law.

2. Subject to the provisions of subsection 3, a constable or deputy constable has the powers of a peace officer:

(a) For the discharge of duties as are or may be prescribed by law;

(b) For the purpose of arresting a person for a public offense committed or attempted in the presence of the constable or deputy constable, if the constable or deputy constable has reasonable cause to believe that the arrest is necessary to prevent harm to other persons or the escape of the person who committed or attempted the public offense; and

(c) In addition to the circumstances described in paragraphs (a) and (b):

(1) In an area within the limits of an incorporated city, for the purposes authorized by and with the consent of the chief of police of the city; and

(2) In an area that is not within the limits of an incorporated city, for the purposes authorized by and with the consent of the sheriff of the county.

3. The constable and each deputy constable of a township shall not carry a firearm in the performance of his or her duties unless:

(a) The constable has adopted a written policy on the use of deadly force by the constable and each deputy constable; and

(b) The constable and each deputy constable has received training regarding the policy.

4. A constable or deputy constable authorized to carry a firearm pursuant to subsection 3 must receive training approved by the Peace Officers' Standards and Training Commission in the use of firearms at least once every 6 months. ***This training must include any continuing education that addresses firearms and is required for a category II peace officer by the standards established by the Peace Officers' Standards and Training Commission pursuant to subsection 2 of NRS 289.510, including, without limitation, any requirements concerning the demonstration of a minimum level of proficiency in the use of firearms.***

5. A constable or deputy constable who wears a uniform in the performance of his or her duties shall display prominently as part of that uniform a badge, nameplate or other uniform piece which clearly displays the name or an identification number of the constable or deputy constable.

6. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle which is located in his or her township at the time the citation is issued and which is required to be registered in this State if the constable determines that the vehicle is not properly registered. Upon the imposition of punishment pursuant to NRS 482.385 on the person to whom the citation is issued, the constable is entitled to charge and collect ~~[a]~~ ***the*** fee ~~[of $100 from the person to whom the citation is issued,]~~ ***provided in NRS 258.125,*** which:

(a) Must be collected by a court that imposes punishment pursuant to NRS 482.385 on behalf of the constable who issued the citation and forwarded by the court to the constable; and

(b) May be retained by the constable as compensation.

7. If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice

of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. ~~[The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.]~~

8. Except as otherwise provided in this subsection or by specific statute, a constable shall not enforce any writ, warrant or other order of a court in a criminal case unless the writ, warrant or order is delivered to the constable for execution by the Attorney General, a district attorney, sheriff or other appropriate person. Notwithstanding the provisions of this subsection, a constable may execute a warrant for arrest which is issued for a failure to appear if the constable or deputy of the constable previously issued the citation which is the subject of the case to the person who is the subject of the warrant.

Sec. 16. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services ~~[:~~

~~For serving]~~ ***relating to an action before any court of justice in this State:***

(a) A fee of $26 for:

(1) Subject to the limitations provided in subsection 2 and except as otherwise provided in this section, serving any rule or order of the court or civil process other than a writ of habeas corpus in civil cases including, without limitation, a ***letter of demand,*** summons ***, complaint, subpoena*** or ~~[any other process in civil cases..... $17~~

~~For summoning a jury before a justice of the peace..... 7~~

~~For taking]~~ ***venire.***

(2) Making and posting notices and advertising for sale, on execution or any judgment or order of sale, not to include the cost of publication in a newspaper.

(3) Taking a bond or undertaking ***.*** ~~[..... 5~~

~~For serving an attachment against the property of a defendant..... 15~~

~~For serving subpoenas, for each witness..... 15~~

~~For a copy of any writ, process or order or other paper, when demanded or required by law, per folio..... 3~~

~~For drawing]~~

(4) Drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof **.** ~~[.....$20 For]~~

(5) Issuing each certificate of sale of real property under execution ~~[.....5~~

~~For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, order for delivery of personal property or any other order in a civil case, except an order of eviction, with traveling fees as for summons.....15~~

~~For]~~ ***or order of sale, and for recording the original certificate with the county recorder, which must be collected from the party receiving the certificate.***

(6) Except as otherwise provided in this subparagraph, serving ~~[one]~~ ***a*** notice required by law before the commencement of a proceeding for any type of eviction **.** ~~[.....26~~

~~For serving not]~~ ***If the constable serves:***

(I) Not fewer than 2 nor more than 10 such notices to the same location, ***the constable is entitled to a fee of $20 for*** each notice **.** ~~[.....20 For serving not]~~

(II) Not fewer than 11 nor more than 24 such notices to the same location, ***the constable is entitled to a fee of $17 for*** each notice **.** ~~[.....17 For serving 25]~~

(III) Twenty-five or more such notices to the same location, ***the constable is entitled to a fee of $15 for*** each notice **.** ~~[.....15~~

~~Except as otherwise provided in subsection 3, for mileage in serving such a notice, for each mile necessarily and actually traveled in going only.....2]~~

➥ But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.

~~[For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a]~~

(7) Executing any order of a court in a civil case, including, without limitation, any writ ~~[of restitution ..... $21~~

~~For making and posting notices, and advertising property]~~ ***issued by the court, any order*** for ~~[sale on execution, not to include]~~ the ~~[cost]~~ ***removal*** of ~~[publication in]~~ a ~~[newspaper ..... 15~~

~~For]~~ ***tenant in a summary eviction action or an order of arrest.***

(b) A fee of $48 for each warrant lawfully executed ~~[.]~~ ***, writ of habeas corpus or other order of the court in a criminal case,*** unless a higher amount is established by the board of county commissioners . ~~[..... 48~~

~~For mailing]~~

(c) Except as otherwise provided in subsection 3, a fee of $3 for:

(1) Each page of a copy of any writ, process or other paper, if demanded or required by law.

(2) Subject to the limitations provided in this subsection and subsection 2, each mile necessarily and actually traveled, for going only, in carrying out the service or execution of any rule, order, notice or civil process described in paragraph (a). If the constable is unable to serve or enforce the document, the constable is not entitled to a fee which exceeds $30.

(3) Mailing a notice of a writ of execution . ~~[..... 2~~

~~Except as otherwise provided in subsection 3, for mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only ..... 2~~

~~But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.~~

~~Except as otherwise provided in subsection 3, for mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only ..... 2~~

~~But mileage may not exceed $20 for any unsuccessful effort to serve such process.~~

~~2. A constable is also entitled to receive:~~

~~(a) For receiving and taking care of property on execution, attachment or order, and for executing an order of arrest in civil cases, compensation for the constable's trouble and expense, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.~~

~~(b)~~~~]~~

(d) A fee of $100 for removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property.

(e) A fee of $100, to be collected pursuant to NRS 482.385, upon the imposition of a punishment upon a person to whom the constable issued a citation pursuant to NRS 258.070.

(f) For collecting all sums on execution or writ, to be charged against the defendant, on the first $3,500, 2 percent thereof, and on all amounts over that sum, 1 percent.

~~[(c)~~~~]~~ ***(g)*** For service in criminal cases, the same fees as are allowed sheriffs for like services, ***including traveling fees,*** to be allowed, audited and paid as are other claims against the county.

~~[(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, $100.~~

~~(e)~~~~]~~ ***(h)*** For providing any other service authorized by law for which no fee is established by this chapter, the fee provided for by ordinance by the board of county commissioners.

2. If a constable is entitled to a fee:

(a) For serving or executing any notices or civil process pursuant to paragraph (a) of subsection 1, if more than two notices, summons, subpoenas or other civil process in the same case are served at the same general location during the same calendar day, the constable is entitled to charge only mileage for the service of one notice.

(b) For mileage for serving a subpoena or a venire pursuant to paragraph (b) of subsection 1, if two or more witnesses or jurors live in the same direction, the constable is entitled to charge only fees for mileage to the most distant witness or juror.

3. For each service for which a constable is otherwise entitled pursuant to subsection 1 to a fee based on the mileage necessarily and actually traveled in performing the service, a board of county commissioners may provide by ordinance for the constable to be

entitled, at the option of the person paying the fee, to a flat fee for the travel costs of that service.

4. ***The constable is also entitled to further compensation for his or her trouble and expense in taking possession of property under attachment, execution, or other process and of preserving the property. The court which issued the writ or order shall issue an order to require the defendant to compensate the constable for the costs that the court determines are just and reasonable upon receipt of an affidavit from the constable which lists such expenses and assets that the expenses are accurate and were necessary.***

5. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

~~[5.]~~ ***6.*** Except as otherwise provided in subsection ~~[6,]~~ ***7,*** constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

~~[6.]~~ ***7.*** Every 5 business days, constables in an office established by the board of county commissioners as an enterprise fund shall account for and pay to the county treasurer any fee collected during the preceding period.

Sec. 17. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the fees described in ***subsection 4 and*** paragraphs ~~[(a)]~~ ***(d)*** and ~~[(d)]~~ ***(e)*** of subsection ~~[2]~~ ***1*** of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 18. NRS 21.111 is hereby amended to read as follows:

21.111 A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to ~~[a]~~ ***any process,*** writ ~~[of execution]~~ or ~~[garnishment.]~~ ***order in a civil case.***

Sec. 19. NRS 21.150 is hereby amended to read as follows:

21.150 1. All sales of property under execution must be made at auction to the highest bidder between the hours of 9 a.m. and 5 p.m. ~~[All]~~ ***Except as otherwise provided by subsection 7,*** sales of

real property must be made at the courthouse of the county in which the property or some part thereof is situated.

2. After sufficient property has been sold to satisfy the execution, more property must not be sold.

3. The officer holding the execution and the officer's deputy shall not become a purchaser or be interested in any purchase at such sale.

4. When the sale is of personal property capable of manual delivery, it shall be in view of those who attend the sale and be sold in such parcels as are likely to bring the highest price.

5. Except as otherwise provided in subsection 6, when the sale is of real property and consisting of several known lots or parcels, they shall be sold separately, or when a portion of such real property is claimed by a third person and the third party requires it to be sold separately, such portion shall be thus sold. If the land to be sold under execution consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, notice of the sale must be posted and published in each of such counties, as provided in this chapter. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold. When such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, the sheriff shall be bound to follow such directions.

6. The provisions of subsection 5 do not apply to a sale pursuant to NRS 40.430.

7. If a sheriff or constable enters into a contract with an operator of an online auction for real property pursuant to section 3 or 8 of this act, respectively, sales of real property conducted pursuant to this section may be conducted by an auction on the Internet website of the operator or by other electronic means. As used in this subsection, "operator of an online auction for real property" has the meaning ascribed to it in section 3 of this act.

Sec. 20. NRS 31.235 is hereby amended to read as follows:

31.235 A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to ~~[a]~~ ***any process,*** writ ~~[of attachment.]~~ ***or order in a civil case.***

Sec. 21. NRS 31.260 is hereby amended to read as follows:

31.260 1. The writ of garnishment must:

(a) Be issued by the sheriff.

(b) Contain the name of the court and the names of the parties.

(c) Be directed to the garnishee defendant.

(d) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address.

(e) Require each person the court directs, as garnishees, to submit to the sheriff an answer to the interrogatories within 20 days after service of the writ upon the person.

2. The writ of garnishment must also notify the garnishee defendant that, if the garnishee defendant fails to answer the interrogatories, a judgment by default will be rendered against the garnishee defendant for:

(a) The amount demanded in the writ of garnishment or the value of the property described in the writ, as the case may be; or

(b) If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section,

➥ which amount or property must be clearly set forth in the writ of garnishment.

3. Execution on the writ of garnishment may occur only if the sheriff mails a copy of the writ ***of garnishment and the writ of execution*** with a copy of the notice of execution to the defendant in the manner and within the time prescribed in NRS 21.076. In the case of a writ of garnishment that continues for 180 days or until the amount demanded in the writ is satisfied, a copy of the writ ***of execution*** and the notice of execution need only be mailed once to the defendant.

Sec. 22. NRS 269.230 is hereby amended to read as follows:

269.230 1. When six or more persons, whether armed or not, shall be unlawfully or riotously assembled in any town, the sheriff of the county ~~[and the sheriff's]~~ ***or his or her*** deputies ~~[,]~~ or the ~~[constable of the town, and the justice of the peace]~~ ***chief of police of the city or his or her peace officers, as applicable,*** shall go among the persons so assembled, or as near as possible, and shall command them, in the name of the people of ~~[the United States and]~~ the State of Nevada, to disperse immediately.

2. If the persons assembled do not immediately disperse, the ~~[magistrates and]~~ officers shall arrest them, that they be punished according to law, and for that purpose may command the aid of all persons present or within the county.

3. If ~~[a magistrate or]~~ ***an*** officer, having notice of an unlawful or riotous assembly, as provided in subsection 1, ~~[neglect]~~ ***neglects*** or ~~[refuse]~~ ***refuses*** to proceed to the place of assembly, or as near thereto as the ~~[magistrate or]~~ officer can with safety, and to exercise the authority with which the ~~[magistrate or]~~ officer is invested for suppressing the same and arresting the offenders, the ~~[magistrate or]~~ officer shall be deemed guilty of a misdemeanor, and shall be punished accordingly.

Sec. 23. NRS 487.095 is hereby amended to read as follows:

487.095 1. Except as otherwise provided in subsection 2:

(a) An automobile wrecker may only charge and collect those fees for towing an abandoned automobile as are prescribed by regulations of the Department.

(b) An automobile wrecker shall not charge a fee to tow an abandoned vehicle if the automobile wrecker does not obtain the consent of the owner of the property to tow the vehicle.

2. When an automobile wrecker removes an abandoned vehicle from public property at the request of a constable as provided in NRS 487.230, the automobile wrecker shall:

(a) If the owner of the abandoned vehicle can be identified and if the automobile wrecker is able to collect from the owner the fee described in paragraph (d) of subsection ~~[2]~~ ***1*** of NRS 258.125, transmit that fee to the constable; or

(b) If the owner of the abandoned vehicle cannot be identified or if the automobile wrecker is otherwise unable to collect from the owner the fee described in paragraph (d) of subsection ~~[2]~~ ***1*** of NRS 258.125, transmit that fee to the constable only if the automobile wrecker is able to satisfy his or her own lien, as provided in NRS 487.270.

Sec. 24. NRS 487.270 is hereby amended to read as follows:

487.270 1. Whenever a vehicle has been removed to a garage or other place as provided by NRS 487.230, the owner of the garage or the automobile wrecker or operator of a tow car who towed the vehicle has a lien on the vehicle for:

(a) The costs of towing and storing for a period not exceeding 90 days; and

(b) If the vehicle was removed from public property at the request of a constable, the fee described in paragraph (d) of subsection ~~[2]~~ ***1*** of NRS 258.125.

2. If the vehicle is appraised at a value of less than $1,500, or less than such other value greater than $1,500 which the Department may establish by regulation, and is not reclaimed within the period prescribed in NRS 487.250, the owner of the garage, automobile wrecker or operator of a tow car may satisfy his or her lien by retaining the vehicle and obtaining a certificate pursuant to NRS 487.880, if applicable, a salvage title as provided in NRS 487.810 or an unbranded title pursuant to subsection 4.

3. If the vehicle is appraised at a value of more than $1,500, or more than such other value greater than $1,500 which the Department may establish by regulation, and is not reclaimed within 45 days, the owner of the garage, automobile wrecker or operator of a tow car may satisfy his or her lien, in accordance with the provisions of NRS 108.265 to 108.367, inclusive. Before such a person may sell the vehicle, the person shall obtain a certificate

pursuant to NRS 487.880, if applicable, a salvage title as provided in NRS 487.810 or an unbranded title pursuant to subsection 4.

4. Before an automobile wrecker or operator of a tow car satisfies his or her lien pursuant to subsection 2 or 3, the automobile wrecker or operator of a tow car may request that the Department issue an unbranded title for the vehicle. The Department shall issue the unbranded title if the automobile wrecker or operator of a tow car submits to the Department a certificate of inspection in such form as the Department may prescribe which has been completed and signed by a garage operator who operates a garage that is registered pursuant to NRS 487.560, by the owner of a body shop licensed pursuant to NRS 487.630, by a rebuilder licensed pursuant to NRS 482.325 or by a qualified employee of such a garage, body shop or rebuilder certifying that:

(a) The vehicle was inspected by the garage operator, owner, rebuilder or employee;

(b) The vehicle meets the standards of the vehicle manufacturer for mechanical fitness and safety;

(c) Any safety equipment, including, without limitation, occupant restraint devices, which was present in the vehicle at the time the vehicle was manufactured is present and operational to the standards of the manufacturer and the provisions of 49 C.F.R. §§ 571.208 and 571.209; and

(d) The vehicle is in a condition to be operated safely on the highways of this State.

5. Nothing in subsection 4 shall be construed as requiring the Department to change the existing status of a certificate of title, including, without limitation, any designation that a vehicle is a salvage vehicle or rebuilt vehicle.

6. If the vehicle was removed from public property at the request of a constable and the owner of the garage or automobile wrecker satisfies his or her lien pursuant to subsection 2 or 3, the owner of the garage or automobile wrecker shall transmit to the constable the fee described in paragraph (d) of subsection ~~[2]~~ ***1*** of NRS 258.125.

7. As used in this section:

(a) "Operator of a tow car" means the operator of a tow car who holds a certificate of public convenience and necessity issued pursuant to NRS 706.4463.

(b) "Unbranded title" means a certificate of title that does not include a specified designation, including, without limitation, a designation that a motor vehicle is a salvage vehicle or rebuilt vehicle.

Sec. 25. NRS 648.014 is hereby amended to read as follows:

648.014 "Process server" means a person, other than a peace officer of the State of Nevada ~~[.]~~ ***or a civil enforcement officer who is appointed pursuant to section 2 or 7 of this act,*** who engages in the business of serving legal process within this State.

Sec. 26. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 27. NRS 31.920, 171.116 and 258.110 are hereby repealed.

TEXT OF REPEALED SECTIONS

31.920 Sheriff may take concealed property by force after demand. If the property, or any part thereof, be concealed in a building or enclosure, the sheriff shall publicly demand its delivery. If it be not delivered, the sheriff shall cause the building or enclosure to be broken open, and take the property into the sheriff's possession, and, if necessary, the sheriff may call to the sheriff's aid the power of the sheriff's county.

171.116 When magistrate may depute person to act as constable. A magistrate may depute in writing any suitable and discreet person to act as constable when no constable is at hand and the nature of the business requires immediate action.

258.110 Unlawful failure to arrest offender; penalty. Any constable who willfully refuses to arrest any person charged with a criminal offense is guilty of a gross misdemeanor and shall be removed from office.

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