

New Law Gives Protection for Deputies

New Colorado law gives additional protections to deputies and their duties with respect to their employment relationship with the sheriff. The new law, which went into effect on July 1, makes changes that put the legal status of deputies more in line with that of other public employees. Whether the definition of “deputy” is limited to employees or includes volunteers is unanswered as there is no reference to a definition, but it is presumed to apply to any POST certified deputy with authority to arrest on behalf of the sheriff, including administrative deputies. The following changes have been brought about as a result of the bill.

The deputies no longer serve “at the pleasure” of the sheriff, but are “at will”. Under Colorado law, “at will” employment provides for several exceptions to an employer’s ability to terminate an employee. For example, an employer terminating an at-will employee for an illegal reason (such as to hide a crime), or a reason in violation of public policy (such as race discrimination) may be liable in a civil action for damages, including reinstatement, back pay, and other costs and damages. There are a number of such exceptions in addition to these examples.

One exception to termination at will that might cause liability would include termination for exercising the right to engage in “legal off-duty activities” under C.R.S.24-34-402.5, such as off-duty political affiliations or loyalties, supporting one’s opponents in the election race, or being a friend or appointee of one’s opponent.

Adopt policies that include a due process hearing for revocation of appointments

The sheriff must also now adopt specific personnel policies “including policies for the review of revocation of appointments”. This requirement also mandates that the sheriff notify the deputy of the reason for the proposed revocation of appointment and “shall give” the deputy an opportunity to be heard by the sheriff. The particulars of such a hearing are left unspecified but it seems likely that efforts to conform the hearing to due process case law could be expected.

Other sections modify the liability of the bond agent, or executors and administrators, under certain circumstances, and limits the liability of the sheriff to \$200 for a failure to make due return of any writ of process or related misconduct concerning those writs.

Finally, it removes the requirement of writing to designate appointments and revocation of appointments.

What This Means For Counties

County sheriffs should implement policies to conform to this new law. It is highly recommended that county sheriffs continue to appoint deputies and revoke deputies in writing.

For more information, contact CTSI at 303-861-0507.