

MASSACHUSETTS GENERAL LAWS - CHAPTER 41: OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS

Section 91. In a city in which the city council accepts this section, or has accepted corresponding provisions of earlier laws, constables shall be appointed by the mayor for terms not exceeding three years. The mayor may, with the consent of the board of aldermen, remove a constable from office for gross misconduct.

Section 91A. The selectmen in any town may from time to time appoint, for terms not exceeding three years, as many constables as they deem necessary.

Section 91B. Constables shall not be appointed by mayors or selectmen under section ninety-one or ninety-one A except as hereinafter provided. A person desiring to be appointed as aforesaid shall make a written application therefor to the appointing authority stating his reasons for desiring such appointment and such information as may be reasonably required by said authority relative to his fitness for said office. Such application shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law. The appointing authority shall also investigate the reputation and character of every applicant and his fitness for said office. The chief of police or other official having charge of the police shall upon request give the appointing authority all possible assistance in making such investigation. The office of constable shall be filled only by appointment of an applicant hereunder who is found by the appointing authority, after investigation as aforesaid, to be a person of good repute and character and qualified to hold said office.

Section 92. A constable who has given bond to the town in a sum of not less than one thousand dollars, with sureties approved by the selectmen, conditioned for the faithful performance of his duties in the service of all civil processes committed to him, and has filed the same, with the approval of the selectmen endorsed thereon, with the town clerk, may within his town serve any writ or other process in a personal action in which the damages are not laid at a greater sum than two hundred dollars, and in replevin in which the subject matter does not exceed in value two hundred dollars, and any writ or other process under chapter two hundred and thirty-nine. A constable who has filed such a bond, in a sum of not less than five thousand dollars, may, within his town, also serve any such writ or other process in which the damages are laid at a sum not exceeding \$7,000, and any process in replevin in which the subject matter does not exceed in value \$7,000.

Section 93. The town clerk shall note upon every bond given by a constable the time of filing. Any person injured by a breach of the condition thereof may, at his own expense, sue thereon in the name of the town, and the proceedings shall be the same as in an action by a creditor on an administrator's bond. The writ shall be endorsed by him and, if he is not a resident of the commonwealth, it shall also be endorsed by a responsible resident thereof. If judgment is for the defendant, execution shall issue for costs against the endorser as if he were a plaintiff of record.

Section 94. Constables may serve the writs and processes described in section ninety-two and warrants and processes in criminal cases, although their town, parish, religious society or district is a party or interested. They shall have the powers of sheriffs to require aid in the execution of their duties. They shall take due notice of and prosecute all violations of law respecting the observance of the Lord's day, profane swearing and illegal gaming. They shall serve all warrants and other processes directed to them by the selectmen of their town for notifying town meetings or for other purposes. They may serve by copy, attested by them, demands, notices and citations, and their returns of service thereof shall be prima facie evidence; but this provision shall not exclude the service thereof by other persons.

Section 95. A constable, in the execution of a warrant or writ directed to him, may convey prisoners and property in his custody under such process beyond the limits of his town, either to the justice who issued it or to the jail or house of correction of his county. If a warrant is issued against a person for an alleged crime committed within any town, any constable thereof to whom the warrant is directed may apprehend him in any place in the commonwealth.

Section 95A. Constables appointed under sections 91, 91A, and 91B or otherwise elected to serve as constables in a city or town shall periodically pay the city or town in which the constable is appointed or elected 25 per cent of all fees the constable collects for the service of civil process under the fee structure established in section 8 of chapter 262. This payment shall be made in installments to be deposited with the city or town treasurer not later than January 15, April 15, July 15 and October 15 of each year, but a constable having less than \$500 to deposit at that time shall hold the share for deposit until the sooner of October 15 or the time when the amount due to the city or town under this section equals or exceeds \$500. A treasurer receiving funds under this section shall deposit them into the general fund of the city or town, and they shall be expended, subject to appropriation by a majority vote of the city council in a city or by a majority vote of town meeting in a town, for any purpose which the city or town considers necessary.

Section 95B. Each constable shall annually on or before April 15 file with the city or town treasurer an account signed under the penalties of perjury of all fees and money received by him under section 8 of chapter 262 for the service of civil process. Such account shall include an itemization of all civil process fees charged by the constable's civil process office, all revenue received from said fees and all amounts paid by the constable to any city or town treasurer on account of such civil process fees under section 95A.