

HB 498 - AS INTRODUCED

2017 SESSION

17-0446

04/09

HOUSE BILL                **498**

AN ACT                    relative to certification requirements for holding the office of sheriff.

SPONSORS:            Rep. Welch, Rock. 13; Sen. Carson, Dist 14

COMMITTEE:          Municipal and County Government

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ANALYSIS

This bill requires sheriffs to satisfactorily complete a program of police training at a school approved by the police standards and training council but exempts sheriffs from the physical fitness requirements of such training.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struck through]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                   relative to certification requirements for holding the office of sheriff.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Police Standards and Training Council; Education and Training Required. Amend RSA 188-  
2 F:27 to read as follows:

3           188-F:27 Education and Training Required.

4           I. At the earliest practical time, the council shall provide by rule that after one year from  
5 the effective date of the rule no person shall be appointed as a police officer, ***sheriff***, state  
6 corrections officer, or state probation-parole officer, except on a temporary or probationary basis,  
7 unless such person has satisfactorily completed a preparatory program of police, corrections, or  
8 probation-parole training appropriate to such person's position at a school approved by the council.  
9 No such officer who lacks the educational and training qualifications required by this section may  
10 have the temporary or probationary employment extended beyond 2 years.

11           II. Every elected police officer ***and sheriff*** shall be required to satisfactorily complete a  
12 preparatory program of police training at a school approved by the council. Any elected ***police***  
13 officer ***or sheriff*** who has not complied with the educational and training requirements of this  
14 paragraph within 6 months after election shall be removed from office by the governing body of the  
15 governmental unit by which such officer ***or sheriff*** was elected; provided, however, that the council  
16 may, for such reasons as it may specify in its rules, grant an extension of this time limit not to  
17 exceed an additional 6 months. A governing body which has removed an elected police officer ***or***  
18 ***sheriff*** from office under the provisions of this paragraph shall appoint a police officer ***or sheriff*** to  
19 fill the vacant office. The appointed police officer ***or sheriff*** shall continue to hold office until the  
20 elected officer ***or sheriff*** who was removed has complied with the educational and training  
21 requirements of this paragraph or until an election is held, whichever occurs first. If any police  
22 officer ***or sheriff*** who has failed to comply with the educational and training requirements of this  
23 paragraph is reelected, such officer ***or sheriff*** shall not take office without permission of the  
24 council. If a noncomplying police officer ***or sheriff*** who has not obtained the permission of the  
25 council to take office is reelected, the governing body of the governmental unit by which such officer  
26 ***or sheriff*** was elected shall appoint a police officer ***or sheriff*** to fill the vacant office. The  
27 appointed police officer ***or sheriff*** shall continue to hold office until the elected officer ***or sheriff***  
28 has complied with the educational and training requirements of this paragraph or until an election  
29 is held, whichever occurs first.

30           III. The council, by rules adopted under RSA 541-A, shall establish the standards for  
31 physical and mental fitness under paragraphs III-a-III-h and shall fix other qualifications for the

1 appointment of police officers, ***sheriffs***, state corrections officers, and probation-parole officers,  
2 including minimum age, physical and mental standards, citizenship, good moral character,  
3 experience, and other such matters as relate to the competence and reliability of persons to assume  
4 and discharge the responsibilities of their offices. The council shall prescribe the means for  
5 presenting evidence of the fulfillment of these requirements.

6 III-a. At the earliest practicable time, the police standards and training council shall  
7 require that all uncertified part-time and full-time police officers, ***sheriffs***, state corrections officers,  
8 and probation-parole officers, prior to assuming their duties, successfully pass a medical  
9 examination including a drug screening administered under the direction of a licensed physician  
10 according to protocols adopted by the council. Such examination, when conducted, shall be valid for  
11 a period of one year for purposes of application for employment.

12 III-b. At the earliest practical time, the police standards and training council shall require  
13 that all uncertified part-time and full-time police officers, state corrections officers, and probation-  
14 parole officers, as a condition of admission to a basic or reciprocal certification training program  
15 successfully pass a physical fitness performance test administered according to standards adopted  
16 by the council. ***This requirement shall not apply to sheriffs.***

17 III-c. No later than January 1, 1999, the police standards and training council shall require  
18 that all uncertified part-time and full-time police officers, ***sheriffs***, state corrections officers, and  
19 probation-parole officers, prior to assuming their duties, successfully pass a psychological screening  
20 test battery administered under the direction of a licensed psychologist or psychiatrist according to  
21 protocols adopted by the council and designed to detect behavioral traits that could adversely affect  
22 the person's ability to perform the essential functions of a law enforcement officer. Such an  
23 examination shall be valid for a period of one year from the date of administration for purposes of  
24 application for such employment.

25 III-d. Beginning January 1, 2001, the police standards and training council shall require  
26 that all certified police officers, state corrections officers, and probation-parole officers, hired after  
27 that date, as a condition of continued certification and employment furnish the council every 3  
28 years with a certificate from a licensed physician, physician's assistant, or registered nurse  
29 practitioner who has conducted a medical examination of the officer according to protocols adopted  
30 by the council, certifying that in the opinion of the examiner the officer is physically capable of  
31 participating in the council's physical fitness test. ***This requirement shall not apply to sheriffs.***

32 III-e. Any officer who is unable to meet the medical requirements of paragraph III-d may  
33 request an additional medical examination by a physician chosen by the council. If the officer is  
34 still unable to meet the standards, such officer's certification shall be placed in a probationary  
35 status for a period of up to 2 years, during which time the officer may request re-examination at any  
36 time. If following the 2-year period the officer is still unable to meet the standards, the officer's  
37 certification shall be suspended until such time as such officer obtains the medical certification  
38 required in paragraph III-d.

1           III-f. Beginning January 1, 2001, the police standards and training council shall require  
2 that all certified police officers, state corrections officers, and probation-parole officers, hired after  
3 that date, as a condition of continued certification and employment every 3 years pass a physical  
4 fitness performance test administered by the hiring authority or the council, according to protocols  
5 adopted by the council. ***This requirement shall not apply to sheriffs.***

6           III-g. Any officer who is unable to meet the physical fitness performance requirements of  
7 paragraph III-f may request an additional physical fitness performance test administered by the  
8 council. If the officer is still unable to meet the standards, such officer's certification shall be placed  
9 in a probationary status for a period of up to 2 years, during which time the officer may request re-  
10 examination at any time. If, following the 2-year period, the officer is still unable to meet the  
11 standards, the officer's certification shall be suspended until such time as such officer is able to pass  
12 the physical performance test.

13           III-h. In any case where the council has reasonable grounds to doubt that the medical  
14 examination performed as required in paragraph III-d was performed in accordance with the  
15 appropriate protocols, the council may require the officer to submit to a separate examination by a  
16 physician selected by the council, at the council's expense.

17           III-i. A licensed physician, psychiatrist, psychologist, or person acting under the licensee's  
18 supervision, whose examination administered under this chapter results in an employment decision  
19 adverse to a police, corrections, or probation-parole officer, ***or sheriff***, shall be immune from suit  
20 resulting from such examination or decision, providing such examination is conducted in good faith,  
21 not in a wanton or reckless manner.

22           III-j. To the extent required to comply with federal or state law, the council may grant a  
23 waiver, with respect to employment at a specific agency, to an officer who cannot meet the  
24 standards in paragraphs III-d-III-g.

25           III-k. Nothing in this section shall prevent individual hiring agencies from adopting  
26 physical fitness programs for their officers that are more stringent or frequent than those required  
27 in this section.

28           III-l. Except as provided in paragraph III-h and notwithstanding other provisions of law to  
29 the contrary, a hiring authority may assess a testing fee to cover all or part of the cost of any  
30 medical or psychological examination in cases where the person has been given a conditional offer of  
31 employment. A hiring authority may also make repayment of a testing fee part of any training or  
32 hiring contract that establishes a minimum term of employment for such an officer ***or sheriff***.

33           IV. The council shall issue a certificate evidencing satisfaction of the requirements of  
34 paragraphs I, II, and III to any applicant who presents such evidence as may be required by its  
35 rules of satisfactory completion of a program or course of instruction in another jurisdiction  
36 equivalent in content and quality to that required by the council for approved police, corrections, or  
37 probation-parole, as appropriate, education and training programs in this state.

38           V. [Repealed.]

1 VI. [Repealed.]

2 VII. Any special agent of the state liquor commission who has the power to enforce the  
3 criminal laws under RSA title XIII and rules of the state liquor commission and who was serving  
4 under a permanent appointment prior to August 13, 1985, shall not be required to meet the  
5 requirements of paragraphs I and III; however, any special agent referred to in this paragraph shall  
6 complete such limited programs as may be prescribed by rule adopted under RSA 541-A by the  
7 police standards and training council under this section within one year of the date the programs  
8 are required. Should any special agent exempted from the requirements of paragraphs I and III of  
9 this section by this paragraph terminate employment with the state liquor commission and be hired  
10 as a police officer by another police department of the state or a political subdivision thereof, the  
11 special agent's certification shall lapse and may be reinstated upon completion of such necessary  
12 additional training courses as the police standards and training council may prescribe by rule  
13 adopted under RSA 541-A.

14 VIII. [Repealed.]

15 2 Effective Date. This act shall take effect 60 days after its passage.