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Title 17: Counties Chapter 22-26 Sheriff to County Hospital - 1987 Replacement Volume

Utah Code Annotated

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History: L. 1899, ch. 43, § 3; C.L. 1907, § 632x3; C.L. 1917, § 1598; R.S. 1933 & C. 1943, 19-18-23.

17-21-24. Repealed.

Repeals. — Section 17-21-24 (L. 1907, ch. 30, § 1; C.L. 1907, § 632x4; C.L. 1917, § 1599; R.S. 1933 & C. 1943, 19-18-24), relating to recording of articles of water users' associations, was repealed by Laws 1983, ch. 69, § 9.

17-21-25. Names of persons signing to be typed or printed on instruments presented for filing.

All instruments presented to the county recorder for filing shall have typed or printed on them the names of all persons whose signatures appear on the instrument whose names are required to be indexed.

Nothing contained herein shall affect the legality of the instrument to be recorded.

History: C. 1953, 17-21-25, enacted by L. 1973, ch. 25, § 1.

CHAPTER 22

SHERIFF

Section		Section	
17-22-1.	"Process," "notice," defined.	17-22-14.	Failure to levy execution — Penalty.
17-22-1.5.	County sheriff qualifications.	17-22-15.	Neglect or refusal to pay over money — Penalty.
17-22-2.	General duties.	17-22-16.	Declaring office vacant.
17-22-3.	Transfer of prisoners to state prison.	17-22-17.	Escapes — Sheriff's liability.
17-22-4.	Operation of jails.	17-22-18.	Rescues — Sheriff's liability.
17-22-5.	Separate cells for certain prisoners.	17-22-19.	Action for escape or rescue — Defenses.
17-22-6.	Service of process on prisoners — Penalty.	17-22-20.	Only written directions to sheriff binding.
17-22-7.	Special guards for jail.	17-22-21.	Process justifies sheriff's action.
17-22-8.	Care of prisoners — Manner prescribed by county commissioners — Funding of services.	17-22-22.	Process to be exhibited.
17-22-8.5.	State reimbursement for felony convicts sentenced to jail.	17-22-23.	Crier of court.
17-22-9.	Federal prisoners.	17-22-24.	Service of papers, other than process, on sheriff — Powers of successor.
17-22-10.	Prisoners under civil process.	17-22-25.	Service of process on sheriff — When constable to act.
17-22-11.	Return of process.	17-22-26.	Process on behalf of state — Fees.
17-22-12.	Return of process as prima facie evidence.		
17-22-13.	Failure or delay in making return on process — Penalty.		

17-22-1. "Process," "Notice," defined.

"Process" as used in this chapter includes all writs, warrants, summonses and orders of the courts of justice or judicial officers. "Notice" includes all papers and orders, except process, required to be served in any proceeding before any court, board, commission or officer, or when required by law to be served independently of such proceedings.

History: R.S. 1898 & C.L. 1907, § 574; C.L. 1917, § 1500; R.S. 1933 & C. 1943, 19-19-1.

Cross-References. — Arrests, § 77-7-1 et seq.

Bond of sheriff, § 17-16-11.

Deputy sheriffs, merit system, § 17-30-1 et seq.

Fees of sheriff, § 21-2-4.

Impersonating peace officer, § 76-8-512.

Office to be maintained at county seat, office hours, § 17-16-9.

Practice of law or partnership with lawyer prohibited, § 78-51-39.

Process, style of, Utah Const., Art. VIII, Sec. 18.

Salary, § 17-16-14.

17-22-1.5. County sheriff qualifications.

Any person elected to the office of or serving as county sheriff must be certified as a peace officer in the state under Subsection 77-1-3(5)(a)(ii) within six months of being elected or appointed.

History: C. 1953, 17-22-1.5, enacted by L. 1985, ch. 23, § 1.

Compiler's Notes. — Subsection 77-1-3(5),

referred to in this section, was repealed by Laws 1985, ch. 174, § 2.

17-22-2. General duties.

The sheriff shall:

- (1) Preserve the peace.
- (2) Make all lawful arrests.
- (3) Attend in person or by deputy the Supreme Court when required, and all district courts held within his county, and obey their lawful orders and directions.
- (4) Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.
- (5) Take charge of and keep the county jail and the prisoners therein.
- (6) Receive and safely keep all persons duly committed to his custody, and file and preserve all commitments by which persons are committed, and keep a record of each, showing name, age and place of birth, particularly describing the person, in a book kept for that purpose.
- (7) Release on the record all attachments of real property when the attachment placed in his hands has been released or discharged.
- (8) Endorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering the same, upon payment of fees, a certificate showing the names of the parties, title of paper and the time of the reception thereof.
- (9) Serve all process and notices in the manner prescribed by law; provided, that no peace officer defined in § 77-10-6 shall have any interest in, or act as a compensated agent for, any collection agency or act as a compensated agent for any creditor. Violation of this subsection is a class C misdemeanor.

(10) Certify under his hand upon process or notices the manner, time and place of service, or, if he fails to make service, the reason for his failure, and return the same without delay.

(11) Extinguish fires occurring in the undergrowth, growing trees, shrubs or forests on the public domain within his county.

(12) Perform such other duties as may be prescribed by law.

History: R.S. 1898, §§ 575, 599; L. 1899, ch. 49, § 1; C.L. 1907, §§ 575, 599; C.L. 1917, §§ 1501, 1525; R.S. 1933 & C. 1943, 19-19-2; L. 1977, ch. 72, § 1.

Cross-References. — Boating Act, enforcement of, § 73-18-20.

Bureau of criminal identification, § 77-26-1 et seq.

Colleges and universities, assistance in dealing with unrest at, §§ 76-8-707, 76-8-709, 76-8-716.

County commissioners, services to be rendered to, § 17-5-34.

Courts, duties as to, §§ 17-22-23, 78-2-14, 78-7-9, 78-7-13.

Detainers against prisoners, § 77-29-1 et seq.

Execution, duties, Rules of Civil Procedure, Rules 69 (b), (d), (e) (3).

Expenses chargeable to county, § 17-15-17.

Fee not to be charged for certifying copy of pleadings or other papers where furnished by party, Rules of Civil Procedure, Rule 77 (e).

Fees of sheriff generally, § 21-2-4.

Fire control duties, §§ 24-2-9, 24-2-18.

Franchise and privilege taxes, collection duties, § 59-13-54.

Gambling, §§ 76-10-1101 et seq.

Jury selection, §§ 78-46-1 et seq.

Juvenile courts, §§ 78-3a-1 et seq.

Liquor Control Act, enforcement, § 32A-13-8.

Office hours, § 17-16-9.

Peace officer training, §§ 67-15-1 et seq.

Pornographic and harmful materials and performances, § 76-10-1201 et seq.

Practice of law or partnership with lawyer prohibited, § 78-51-39.

Replevin actions, Rules of Civil Procedure, Rule 64B (c), (h).

Retirement, § 49-11-1 et seq.

Sales tax, collection duties, § 59-15-11.

Service of process, Rules of Civil Procedure, Rule 4 (d) (1).

Statutory construction, deputy as included in word "sheriff," § 68-3-12(17).

Use tax, collection duties, § 59-16-15.

Warrants to obtain evidence of violation of health, safety, building or animal cruelty laws or ordinances, § 77-23-11.

NOTES TO DECISIONS

ANALYSIS

Investigation of crime.

Powers and duties of sheriff.

Service of process and notices.

Investigation of crime.

Failure of sheriff, who is accountable to public and removable thereby in a proper proceeding, to investigate a crime claimed by an individual to have been committed is ordinarily a matter of discretion, and is not actionable or compensable and not pursuable by an individual. *Obray v. Malmberg*, 26 Utah 2d 17, 484 P.2d 160 (1971).

Powers and duties of sheriff.

The powers and duties of the sheriff are prescribed by statute and are similar to those gen-

erally prescribed by other western states. In performing them, he, generally speaking, acts independently of the board of county commissioners except as otherwise restricted and specified by statute. *Sheriff of Salt Lake County v. Board of Comm'rs*, 71 Utah 593, 268 P. 783 (1928).

Service of process and notices.

The sheriff is liable on his bond for refusing to serve process as required by Subsection (9). *Rich v. Industrial Comm'n*, 80 Utah 511, 15 P.2d 641 (1932).

COLLATERAL REFERENCES

Am. Jur. 2d. — 70 Am. Jur. 2d Sheriffs, Police, and Constables §§ 21 to 35.

C.J.S. — 80 C.J.S. Sheriffs and Constables §§ 35, 42 to 49.

Key Numbers. — Sheriffs and Constables ⇐ 78, 86 to 88.

17-22-3. Transfer of prisoners to state prison.

The sheriff of the county in which a criminal is sentenced to confinement in the state prison, or is sentenced to death, shall cause such convict to be removed from the county jail within five days after the sentence and conveyed to the state prison and delivered to the warden thereof.

History: R.S. 1898, § 2272; L. 1901, ch. 38, § 1; C.L. 1907, § 2273; C.L. 1917, § 5491; R.S. 1933 & C. 1943, 19-19-3.

17-22-4. Operation of jails.

The common jails in the several counties shall be kept by the sheriffs, and shall be used as follows:

- (1) For the detention of persons committed in order to secure their attendance as witnesses in criminal cases.
- (2) For the detention of persons charged with crime and committed for trial.
- (3) For the confinement of persons committed for contempt, or upon civil process, or by other authority of law.
- (4) For the confinement of persons sentenced to imprisonment therein upon conviction of crime.

History: R.S. 1898 & C.L. 1907, § 576; C.L. 1917, § 1502; R.S. 1933 & C. 1943, 19-19-4.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 49.

A.L.R. — Liability of prison authorities for injury to prisoner directly caused by assault by other prisoner, 41 A.L.R.3d 1021.

Key Numbers. — Sheriffs and Constables ⇐ 86.

17-22-5. Separate cells for certain prisoners.

Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process, must not be kept or put in the same room, nor shall male and female prisoners, except husband and wife, be kept or put in the same room. Females shall be under the supervision of a suitable matron to be appointed by the sheriff.

History: R.S. 1898 & C.L. 1907, § 577; C.L. 1917, § 1503; R.S. 1933 & C. 1943, 19-19-5. **Cross-References.** — Child received at adult facility, § 78-3a-31.

17-22-6. Service of process on prisoners — Penalty.

A sheriff or jailer upon whom a paper in a judicial proceeding directed to a prisoner in his custody is served must forthwith deliver it to the prisoner, with a note thereon of the time of its service. For neglect to do so he is liable to the prisoner for all damages occasioned thereby.

History: R.S. 1898 & C.L. 1907, § 578; C.L. 1917, § 1504; R.S. 1933 & C. 1943, 19-19-6.

17-22-7. Special guards for jail.

The sheriff when necessary may with the assent of the board of county commissioners employ a temporary guard for the protection of the county jail, or for the safekeeping of prisoners, and the expenses thereof shall be a county charge.

History: R.S. 1898 & C.L. 1907, § 579; C.L. 1917, § 1505; R.S. 1933 & C. 1943, 19-19-7.

17-22-8. Care of prisoners — Manner prescribed by county commissioners — Funding of services.

The sheriff must receive all persons committed to jail by competent authority and see that they are provided with necessary food, clothing and bedding in the manner prescribed by the board of county commissioners. The expense incurred in providing the above services to prisoners shall be paid out of the county treasury except as provided in §§ 17-22-8.5 and 17-22-10.

History: R.S. 1898 & C.L. 1907, § 580; C.L. 1917, § 1506; R.S. 1933 & C. 1943, 19-19-8; L. 1971, ch. 28, § 1; 1983, ch. 68, § 2.

Amendment Notes. — The 1983 amendment inserted the reference to § 17-22-8.5.

Cross-References. — Expenses chargeable to county, § 17-15-17.

COLLATERAL REFERENCES

A.L.R. — Liability of prison authorities for injury to prisoner directly caused by assault by other prisoner, 41 A.L.R.3d 1021.

17-22-8.5. State reimbursement for felony convicts sentenced to jail.

The state shall reimburse any county for the actual costs of incarceration for a person convicted of any felony and sentenced to serve in a county jail as a condition of probation. The Department of Corrections shall define the actual costs of incarceration and provide a formula for reimbursement. Reimbursement, however, may not exceed the funds appropriated by the Legislature for that purpose in any fiscal year.

History: C. 1953, 17-22-8.5, enacted by L. 1983, ch. 68, § 3; L. 1985, ch. 212, § 1. Amendment Notes. — The 1985 amendment substituted "Department of Corrections" for "board of corrections" in the second sentence.

17-22-9. Federal prisoners.

Persons convicted of crime in any of the courts of the United States in the state of Utah as well as prisoners held to answer before such courts for a violation of any of the laws of the United States shall be received and held in the jail of any county under the same regulations and laws governing prisoners held under the authority of this state, and upon such terms as to compensation as may be agreed upon by the county and the United States.

History: R.S. 1898 & C.L. 1907, § 581; C.L. 1917, § 1507; R.S. 1933 & C. 1943, 19-19-9.

17-22-10. Prisoners under civil process.

Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by deposit of money, to meet the expenses of necessary food, clothing and bedding for him, or to detain such person any longer than the expenses are provided for. This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs or orders of court.

History: R.S. 1898 & C.L. 1907, § 582; C.L. 1917, § 1508; R.S. 1933 & C. 1943, 19-19-10.

17-22-11. Return of process.

When process or notice is returnable he may enclose such process or notice in an envelope addressed to the officer or person from whom the same emanated, and deposit it in the post office, prepaying the postage.

History: R.S. 1898 & C.L. 1907, § 583; C.L. 1917, § 1509; R.S. 1933 & C. 1943, 19-19-11.

17-22-12. Return of process as prima facie evidence.

The return of the sheriff upon process or notice is prima facie evidence of the facts in such return stated.

History: R.S. 1898 & C.L. 1907, § 584; C.L. 1917, § 1510; R.S. 1933 & C. 1943, 19-19-12.

17-22-13. Failure or delay in making return on process — Penalty.

If a sheriff does not return without delay a process or notice in his possession with the necessary endorsement thereon, he is liable to the party aggrieved for all damages sustained by him.

History: R.S. 1898 & C.L. 1907, § 585; C.L. 1917, § 1511; R.S. 1933 & C. 1943, 19-19-13. **Cross-References.** — Limitation of actions, § 78-12-28.

COLLATERAL REFERENCES

Am. Jur. 2d. — 70 Am. Jur. 2d Sheriffs, Police, and Constables § 81. **Key Numbers.** — Sheriffs and Constables ⇨ 123.

C.J.S. — 80 C.J.S. Sheriffs and Constables §§ 110 to 112.

17-22-14. Failure to levy execution — Penalty.

If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or his attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ which is liable to be levied upon and sold, he shall be liable to the creditor for the value of such property.

History: R.S. 1898 & C.L. 1907, § 586; C.L. 1917, § 1512; R.S. 1933 & C. 1943, 19-19-14.

NOTES TO DECISIONS

Liability for releasing property levied upon.

Judgment creditor cannot hold sheriff liable for releasing property levied upon without giv-

ing him opportunity to furnish bond, unless he can show damage therefrom. *Skid Evans, Inc. v. Patten*, 78 Utah 116, 1 P.2d 959 (1931).

COLLATERAL REFERENCES

Am. Jur. 2d. — 70 Am. Jur. 2d Sheriffs, Police, and Constables § 56.

C.J.S. — 80 C.J.S. Sheriffs and Constables § 61.

Key Numbers. — Sheriffs and Constables ⇨ 106.

17-22-15. Neglect or refusal to pay over money — Penalty.

If he neglects or refuses to pay over on demand to the person entitled thereto any money which may come into his hands by virtue of his office, after deducting all legal fees, the amount thereof with twenty-five per cent damages and interest at the rate of one per cent per month from the time of demand may be recovered by such person; provided, that such sheriff may pay such money into the court or to the clerk thereof issuing the writ or process upon which such money is collected or received and from the time of such payment the sheriff shall be relieved of all liability therefor, unless the detention is shown to have been wrongful.

History: R.S. 1898 & C.L. 1907, § 587; C.L. 1917, § 1513; R.S. 1933 & C. 1943, 19-19-15.

COLLATERAL REFERENCES

Am. Jur. 2d. — 70 Am. Jur. 2d Sheriffs, Police, and Constables § 76.

C.J.S. — 80 C.J.S. Sheriffs and Constables §§ 95 to 97.

Key Numbers. — Sheriffs and Constables ⇐ 122.

17-22-16. Declaring office vacant.

When the sheriff is committed for not paying over money received by him by virtue of his office and remains committed for sixty days his office is vacant.

History: R.S. 1898 & C.L. 1907, § 592; C.L. 1917, § 1518; R.S. 1933 & C. 1943, 19-19-16.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 8.

Key Numbers. — Sheriffs and Constables ⇐ 5.

17-22-17. Escapes — Sheriff's liability.

A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made, is liable as follows:

(1) When the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment he is liable to the plaintiff as bail.

(2) When the arrest is on an execution or commitment to enforce the payment of money he is liable for the amount expressed in the execution or commitment.

(3) When the arrest is on an execution or commitment other than to enforce the payment of money he is liable for the actual damages sustained.

(4) Upon being sued for damages for an escape or rescue he may introduce evidence in mitigation and exculpation.

History: R.S. 1898 & C.L. 1907, § 588; C.L. 1917, § 1514; R.S. 1933 & C. 1943, 19-19-17.

COLLATERAL REFERENCES

Am. Jur. 2d. — 27 Am. Jur. 2d Escape, Prison Breaking, and Rescue §§ 21 to 24.

C.J.S. — 80 C.J.S. Sheriffs and Constables §§ 118 to 120.

A.L.R. — Liability of public officer or body

for harm done by prisoner permitted to escape, 44 A.L.R.3d 899.

Key Numbers. — Sheriffs and Constables ⇐ 104.

17-22-18. Rescues — Sheriff's liability.

He is liable for the rescue of a person arrested in a civil action equally as for an escape.

History: R.S. 1898 & C.L. 1907, § 589; C.L. 1917, § 1515; R.S. 1933 & C. 1943, 19-19-18.

17-22-19. Action for escape or rescue — Defenses.

An action cannot be maintained against the sheriff for a rescue or for an escape of a person arrested upon an execution or commitment, if after his rescue or escape and before the commencement of the action the prisoner returns to the jail or is retaken by the sheriff or by any other person.

History: R.S. 1898 & C.L. 1907, § 590; C.L. 1917, § 1516; R.S. 1933 & C. 1943, 19-19-19. sheriff as conclusive evidence of right to recover against sureties, § 78-22-2.

Cross-References. — Judgment against Limitation of action for escape, § 78-12-29.

17-22-20. Only written directions to sheriff binding.

No direction or authority by any party or his attorney to the sheriff in respect to the execution of process or the return thereof or to any act or omission relating thereto is available to discharge or excuse the sheriff from liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party or by the party, if he has no attorney.

History: R.S. 1898 & C.L. 1907, § 591; C.L. 1917, § 1517; R.S. 1933 & C. 1943, 19-19-20.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 54. **Key Numbers.** — Sheriffs and Constables ⇨ 93.

17-22-21. Process justifies sheriff's action.

A sheriff is justified in the execution of, and must execute, all process, writs and orders regular on their face and issued by competent authority.

History: R.S. 1898 & C.L. 1907, § 593; C.L. 1917, § 1519; R.S. 1933 & C. 1943, 19-19-21.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 44. **Key Numbers.** — Sheriffs and Constables ⇨ 98(1).

17-22-22. Process to be exhibited.

The officer executing process must then, and at all times subsequent as long as he retains it, upon request show the same with all papers attached to any person interested therein.

History: R.S. 1898 & C.L. 1907, § 594; C.L. 1917, § 1520; R.S. 1933 & C. 1943, 19-19-22.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 44(d). **Key Numbers.** — Sheriffs and Constables ☞ 87.

17-22-23. Crier of court.

The sheriff in attendance upon court must, if required by the court, act as crier thereof, call the parties and witnesses and other persons bound to appear at the court, and make proclamation of the opening and adjournment of court and of any other matter under its direction.

History: R.S. 1898 & C.L. 1907, § 595; C.L. 1917, § 1521; R.S. 1933 & C. 1943, 19-19-23.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables § 35. **Key Numbers.** — Sheriffs and Constables ☞ 95.

17-22-24. Service of papers, other than process, on sheriff — Powers of successor.

Service upon the sheriff of a paper other than process may be made by delivering it or a copy thereof to him or to one of his deputies or to a person in charge of his office during office hours, or, if no such person is there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of his death, resignation of office or at the expiration of his office such process shall be executed by his successor in office; and when the sheriff sells real estate under and by virtue of an execution or order of court he or his successor in office shall execute and deliver to the purchaser all such deeds and conveyances as are required by law and necessary for that purpose, and such deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

History: R.S. 1898 & C.L. 1907, § 596; C.L. 1917, § 1522; R.S. 1933 & C. 1943, 19-19-24.

17-22-25. Service of process on sheriff — When constable to act.

In cases where it appears in any court of record that the sheriff is a party, or where an affidavit is filed with the clerk of the court stating partiality, prejudice, consanguinity or interest on the part of the sheriff, the clerk of the court shall direct process to any constable of the county, whose duty it shall be to execute it in the same manner as if he were sheriff.

History: R.S. 1898 & C.L. 1907, § 597; C.L. 1917, § 1523; R.S. 1933 & C. 1943, 19-19-25.

COLLATERAL REFERENCES

C.J.S. — 80 C.J.S. Sheriffs and Constables §§ 41, 154.

Key Numbers. — Sheriffs and Constables ⇐ 85, 136.

17-22-26. Process on behalf of state — Fees.

It shall be the duty of the sheriff to duly serve and return all process in criminal cases to which the state is a party, lawfully issued by any court of the state, and he shall perform such duty without fee in cases where such process is issued on behalf of the state; but where the process issues from a court outside of his county he shall be entitled to his actual expenses necessarily incurred in the service of the same, to be paid by the county where the process was issued.

History: R.S. 1898, § 599; L. 1901, ch. 49, § 1; C.L. 1907, § 599; C.L. 1917, § 1525; R.S. 1933 & C. 1943, 19-19-26.

CHAPTER 23

COUNTY SURVEYOR

Section		Section	
17-23-1.	General duties and powers.	17-23-8.	Official surveys — How marked and tied.
17-23-2.	Office supplies — Records remain public property.	17-23-9.	Re-establishment of lines and corners.
17-23-3.	Seal.	17-23-10.	Surveys of county lines and roads, road district, precinct and school district lines — To act as county engineer.
17-23-4.	Duty respecting maps filed for record.	17-23-11.	Duties — Omnibus provision.
17-23-5.	Making of maps for county or county officers.		
17-23-6.	Repealed.		
17-23-7.	Survey by direction of court — Compensation.		

17-23-1. General duties and powers.

The surveyor must make any survey that may be required by order of court or by the board of county commissioners. He shall keep a correct and fair record of all surveys made by him in an indexed record to be furnished by the board of county commissioners. He shall number them in the order made and preserve a copy of the field notes and calculations of each survey and endorse thereon its proper number. A copy of said field notes together with a fair and accurate plat, and a certificate of survey attested by his official seal must upon application be furnished by him to any person upon payment of the fees as set by the board of county commissioners. He shall also have power to administer and certify oaths whenever necessary in the discharge of his official duties.

History: R.S. 1898 & C.L. 1907, § 636; C.L. 1917, § 1615; R.S. 1933 & C. 1943, 19-20-1; L. 1961, ch. 33, § 1.

Cross-References. — Assistants, salaries, § 17-16-19.

Bond of surveyor, § 17-16-11.

Boundaries in dispute, duties respecting, § 17-1-33.

Certification of maps and plats, § 57-5-1 et seq.

Fees of surveyor, § 21-2-7.

Office to be kept at county seat, office hours, § 17-16-9.

Salary, § 17-16-14.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 144.

Key Numbers. — Counties ⇌ 88.

17-23-2. Office supplies — Records remain public property.

The board of county commissioners shall furnish an office, furniture and all stationery and record books necessary for the surveyor's office. All records, maps, plats, profiles, calculations and field notes of all surveys made by him in his official capacity during his term of office shall be the property of the county, open to the inspection of any person free of charge, and shall be delivered by the surveyor to his successor in office.

History: R.S. 1898 & C.L. 1907, § 637; C.L. 1917, § 1616; R.S. 1933 & C. 1943, 19-20-2.

17-23-3. Seal.

The county sureyor shall have a seal, to be furnished by the board of county commissioners, the impression of which shall contain the following words: "State of Utah, County Surveyor," together with the name of the county in which the same is to be used.

History: Code Report; R.S. 1933 & C. 1943, 19-20-3.

17-23-4. Duty respecting maps filed for record.

It shall be the duty of the county surveyor to copy or trace maps and plats filed for record in the office of the county recorder when requested by said recorder.

History: R.S. 1898 & C.L. 1907, § 638; C.L. 1917, § 1617; R.S. 1933 & C. 1943, 19-20-4; L. 1961, ch. 33, § 2.

17-23-5. Making of maps for county or county officers.

The county surveyor shall trace, blueprint or otherwise make all maps necessary for the county or any county officer, when so requested, and the same shall be filed in his office, together with all data obtained by him from other sources; provided, that in counties where the salary of the county surveyor is not intended to cover the expenses of such work, the board of county commissioners may enter into a contract or other arrangement with the county surveyor or another surveyor, or other person competent to make maps and plats for such mapping and platting as is required by law.

History: R.S. 1898, § 639; L. 1901, ch. 101, § 1; C.L. 1907, § 639; C.L. 1917, § 1618; R.S. 1933 & C. 1943, 19-20-5; L. 1951, ch. 30, § 1; 1961, ch. 33, § 3.

Cross-References. — Present-ownership maps, § 17-21-21.

17-23-6. Repealed.

Repeals. — Section 17-23-6 (R.S. 1898 & C.L. 1907, § 640; C.L. 1917, § 1619; R.S. 1933 & C. 1943, 19-20-6), relating to survey of lands

divided by county lines and the extraterritorial authority of county surveyors, was repealed by Laws 1961, ch. 33, § 9.

17-23-7. Survey by direction of court — Compensation.

When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the surveyor of any county in which any part of the land is situated. The court order shall also provide for reasonable compensation for said services.

History: R.S. 1898 & C.L. 1907, § 641; C.L. 1917, § 1620; R.S. 1933 & C. 1943, 19-20-7; L. 1961, ch. 33, § 4.

17-23-8. Official surveys — How marked and tied.

All corners of official surveys made by such surveyor must be distinctly marked on the ground by a good and sufficient monument or stake and a record made of the same. All such surveys must be tied by course and distance to the nearest government land corner and recorded by him in his office.

CHAPTER 24

COUNTY TREASURER

Section		Section	
17-24-1.	General duties.	17-24-12.	Reports to commissioners.
17-24-2.	Auditor's certificate to accompany remittances.	17-24-13.	Failure to settle or report — Penalty.
17-24-3.	Receipts for payments.	17-24-14.	Refusal of county attorney to account — Penalty.
17-24-4.	Warrants — Payment only according to list.	17-24-15.	Disposal of money found on dead bodies.
17-24-5.	Nonpayment of warrant — Interest.	17-24-16.	Demand for money found on dead body.
17-24-6.	Payment when in funds — Notice.	17-24-17.	Suspension of treasurer.
17-24-7.	Contents of notice.	17-24-18.	Death of treasurer — Duty of personal representative.
17-24-8.	Payment according to time of presentment.	17-24-19.	Right of visitation over treasurer.
17-24-9.	Failure to present warrant for payments.	17-24-20.	Loss of or loaning funds — Liability.
17-24-10.	Interest payments to be endorsed.	17-24-21.	Seal of county treasurers.
17-24-11.	Monthly and annual settlements with auditor — Monthly reports to state treasury.		

17-24-1. General duties.

The county treasurer shall:

- (1) Receive all money belonging to the county and all other money by law directed to be paid to him, safely keep the same, and apply and pay it out and render an account thereof as required by law.
- (2) Keep an account of the receipts and expenditures of all such money in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account any money was received by him; the amount, time when, to whom, and on what account all disbursements were made by him.
- (3) Disburse county money only on county warrants issued by the county auditor, except on settlements with the state.
- (4) Disburse the money in the treasury on such warrants only when they are based on orders of the board of county commissioners, or upon the order of the district court, or as otherwise provided by law.
- (5) File and keep the certificates of the auditor delivered to him when money is paid into the treasury.
- (6) So keep his books that the amounts received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole of the receipts and expenditures are shown in one general or cash account.
- (7) Perform such other duties as are or may be required by law.

History: R.S. 1898 & C.L. 1907, § 553; C.L. 1917, § 1475; R.S. 1933 & C. 1943, 19-21-1.

Cross-References. — Bond of treasurer, §§ 17-16-11, 52-1-12.

Clerk's bond and oath, custodian of, § 52-1-3.

Deposit of funds due state, § 51-4-2.

Elections, acting on board of canvassers, § 20-8-2.

Fees, § 21-2-5.

Irrigation district bond taxation, duties as to, §§ 73-7-20, 73-7-21.

Joint statements with auditor, § 17-19-12.	Salary, § 17-16-14.
Jury selection duties, § 78-46-21.	Solid waste management facility fees, collection with taxes, § 26-32-5.
Money deposited in court, custody of, § 78-27-4.	
Office to be kept at county seat, hours, § 17-16-9.	

NOTES TO DECISIONS

ANALYSIS

Liability of officer and bondsmen.
 Nature of officer's functions.

Liability of officer and bondsmen.

Both the treasurer and the surety on his official bond are liable if treasurer fails to perform the duties placed on him by this section. *Beaver County v. Home Indem. Co.*, 88 Utah 1, 52 P.2d 435 (1935).

Nature of officer's functions.

The county treasurer acts both in a ministerial and a quasi-judicial capacity. *Board of Educ. v. Jeppson*, 74 Utah 576, 280 P. 1065 (1929).

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 143.
 Key Numbers. — Counties ⇌ 90.

17-24-2. Auditor's certificate to accompany remittances.

He must receive no money into the treasury, except taxes, unless accompanied by the certificate of the auditor provided for in Chapter 19 of this title.

History: R.S. 1898 & C.L. 1907, § 554; C.L. 1917, § 1476; R.S. 1933 & C. 1943, 19-21-2.

17-24-3. Receipts for payments.

When any money other than taxes is paid into the county treasury he must give to the person paying the same a receipt therefor, which must forthwith be deposited with the county auditor, who must charge the treasurer therewith and give the person paying the same a receipt.

History: R.S. 1898 & C.L. 1907, § 555; C.L. 1917, § 1477; R.S. 1933 & C. 1943, 19-21-3.

17-24-4. Warrants — Payment only according to list.

When a warrant is presented for payment and there is money in the treasury for that purpose he shall pay the same, and write on the face thereof "paid," the date of payment and sign his name thereto; provided, that the treasurer shall not receive, or pay, or endorse any warrant until he shall have received from the clerk of the board of county commissioners the certified list mentioned in § 17-5-15, and not then unless a claim or order upon which such warrant is based appears upon such list.

History: R.S. 1898 & C.L. 1907, § 556; C.L. 1917, § 1478; R.S. 1933 & C. 1943, 19-21-4.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 252.
Key Numbers. — Counties ⇌ 168(5).

17-24-5. Nonpayment of warrant — Interest.

When any warrant is presented to the treasurer for payment and the same is not paid for want of funds, the treasurer must endorse thereon "Not paid for want of funds," and annex the date of presentation and sign his name thereto, and from that time until notice is given of funds on hand to pay the same the warrant shall bear interest at the rate of five per cent per annum.

History: R.S. 1898 & C.L. 1907, § 557; C.L. 1917, § 1479; R.S. 1933 & C. 1943, 19-21-5.

17-24-6. Payment when in funds — Notice.

When there is sufficient money in the treasury to pay warrants drawing interest the treasurer must give notice in some newspaper published in the county, or if none is published therein, then by written notice posted at the front door of the county courthouse, stating therein that he is ready to pay such warrants. From the first publication or posting of such notice such warrants shall cease to draw interest.

History: R.S. 1898 & C.L. 1907, § 558; C.L. 1917, § 1480; R.S. 1933 & C. 1943, 19-21-6.

17-24-7. Contents of notice.

In advertising warrants under the provisions of the next preceding section the treasurer need not publish the warrants in detail, but may give notice only that county warrants which were presented for payment prior to a date stated in the notice are payable. When a part only of the warrants presented for payment on the same day can be paid the treasurer must designate such payable warrants in the advertisement.

History: R.S. 1898 & C.L. 1907, § 559; C.L. 1917, § 1481; R.S. 1933 & C. 1943, 19-21-7.

17-24-8. Payment according to time of presentment.

Warrants drawn on the treasurer and properly attested are entitled to preference as to payment out of money in the treasury properly applicable to the payment of such warrants according to the priority of time in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon receipt into the treasury of money not appropriated, he must set apart the same or so much thereof as is necessary for the payment of such warrants.

History: R.S. 1898 & C.L. 1907, § 560; C.L. 1917, § 1482; R.S. 1933 & C. 1943, 19-21-8.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 254.
Key Numbers. — Counties ⇌ 168(3).

17-24-9. Failure to present warrant for payments.

Should such warrants not be again presented for payment within thirty days from the time the notice hereinbefore provided for is given, the fund set aside for the payment of the same must be applied by the treasurer to the payment of unpaid warrants next in order of registry. The board of county commissioners may on application and presentation of warrants properly endorsed which have been advertised make an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

History: R.S. 1898 & C.L. 1907, § 561; C.L. 1917, § 1483; R.S. 1933 & C. 1943, 19-21-9.

17-24-10. Interest payments to be endorsed.

When the treasurer pays any warrant upon which any interest is due he must note on the warrant the amount of interest paid thereon, and enter on his account the amount of such interest distinct from the principal.

History: R.S. 1898 & C.L. 1907, § 562; C.L. 1917, § 1484; R.S. 1933 & C. 1943, 19-21-10.

COLLATERAL REFERENCES

C.J.S. — 20 Counties § 143.
Key Numbers. — Counties ⇌ 90.

17-24-11. Monthly and annual settlements with auditor — Monthly reports to state treasurer.

The county treasurer must settle his account relating to the collection, care, and disbursement of public revenue of whatsoever nature and kind with the county auditor on the tenth day of each month, stating the amount of money or other property received prior to the period of such settlement, the source whence the same was derived, the amount of payments or disbursements, with the amount remaining on hand. He must in these settlements deposit all warrants redeemed by him and take the auditor's receipt for them. He must also make a full settlement of all accounts with the auditor annually on the tenth day of January. The treasurer shall submit a report relating to the collection, care, and disbursement of state money of whatsoever nature and kind to the state treasurer on the tenth day of each month.

History: C. 1953, 17-24-11, enacted by L. 1974, ch. 27, § 11.

Repeals and Enactments. — Laws 1974, ch. 27, § 11 repealed former § 17-24-11 (R.S. 1898 & C.L. 1907, § 563; C.L. 1917, § 1485; R.S. 1933 & C. 1943, 19-21-11; L. 1969, ch. 206, § 26), relating to county treasurer's monthly and annual settlements of accounts with the auditor, and enacted present § 17-24-11.

Cross-References. — Accounts, duty of auditor to keep accounts current with treasurer, § 17-19-7.

Audit of treasurers' books, § 17-19-10.
Receipts for money paid treasurer, § 17-19-2.

State Money Management Act, § 51-7-1 et seq.

17-24-12. Reports to commissioners.

Each county treasurer must make a detailed report whenever required so to do by the county commissioners at any regular or special meeting of the board of all money received by him, and of disbursements thereof, and of all other proceedings in his office so that the receipts into the treasury and the amount of disbursements shall clearly and distinctly appear.

History: R.S. 1898 & C.L. 1907, § 564; C.L. 1917, § 1486; R.S. 1933 & C. 1943, 19-21-12.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 232.

Key Numbers. — Counties ⇌ 159.

17-24-13. Failure to settle or report — Penalty.

If any county treasurer shall neglect or refuse to settle or report as in this chapter provided, he shall forfeit to the county the sum of \$500 for every such neglect or refusal, and the county attorney must institute suit for the recovery thereof.

History: R.S. 1898 & C.L. 1907, § 565; C.L. 1917, § 1487; R.S. 1933 & C. 1943, 19-21-13.

17-24-14. Refusal of county attorney to account — Penalty.

If the county attorney refuses or neglects to account for and pay over money received by him as required by this title, the county treasurer must bring an action against him for the recovery thereof in the name of the county, and may recover in such action in addition to the amount so received twenty per cent thereon by way of damages.

History: R.S. 1898 & C.L. 1907, § 566; C.L. 1917, § 1488; R.S. 1933 & C. 1943, 19-21-14.

17-24-15. Disposal of money found on dead bodies.

The treasurer upon receiving from a justice of the peace money found on a dead body must place it to the credit of the county. On receiving other property he must in like manner within ninety days sell it at public auction upon reasonable public notice, and must in like manner place the proceeds to the credit of the county. All such money must be kept in a separate fund.

History: R.S. 1898 & C.L. 1907, § 568; C.L. 1917, § 1490; R.S. 1933 & C. 1943, 19-21-15.

17-24-16. Demand for money found on dead body.

If such money in the treasury is demanded within six years by the legal representatives of the decedent, the treasurer must pay it to them after deducting the fees and expenses of the justice and of the county in relation to the matter, or the same may be so paid at any time thereafter upon the order of the board of county commissioners.

History: R.S. 1898 & C.L. 1907, § 569; C.L. 1917, § 1491; R.S. 1933 & C. 1943, 19-21-16.

17-24-17. Suspension of treasurer.

Whenever an action based upon official misconduct is commenced against any county treasurer the board of county commissioners may in its discretion suspend him from office until such action is determined, and may appoint some person to fill the vacancy, who shall qualify and give such bond as may be required by the board.

History: R.S. 1898 & C.L. 1907, § 571; C.L. 1917, § 1493; R.S. 1933 & C. 1943, 19-21-17.

17-24-18. Death of treasurer — Duty of personal representative.

In case of the death of any county treasurer his legal representative must deliver up to the person appointed to fill the vacancy occasioned by such death all the official moneys, books, accounts, papers and documents which come into his possession.

History: R.S. 1898 & C.L. 1907, § 572; C.L. 1917, § 1494; R.S. 1933 & C. 1943, 19-21-18.

17-24-19. Right of visitation over treasurer.

The books, accounts and vouchers of the treasurer are at all times subject to the inspection and examination of the board of county commissioners, the county attorney, the county auditor and the grand jury.

History: R.S. 1898 & C.L. 1907, § 573; C.L. 1917, § 1495; R.S. 1933 & C. 1943, 19-21-19.

17-24-20. Loss of or loaning funds — Liability.

The county treasurer must safely keep all public money received by him belonging to the state or to any city or county until disbursed according to law. He shall not lend the same, and he shall be liable therefor on his official bond.

History: R.S. 1898 & C.L. 1907, § 570; C.L. 1917, § 1492; R.S. 1933 & C. 1943, 19-21-20.

NOTES TO DECISIONS

ANALYSIS

Extent of duty imposed.
Liability of treasurer and bondsmen.
Limitation of surety's liability.

Extent of duty imposed.

This section imposes an absolute duty. The treasurer is an insurer of the money; consequently his bondsman, having contracted for full coverage, is unqualifiedly liable. *Beaver County v. Home Indem. Co.*, 88 Utah 1, 52 P.2d 435 (1935), distinguished, *Clegg v. Metropolitan Cas. Ins. Co.*, 109 Utah 391, 174 P.2d 616 (1946).

Liability of treasurer and bondsmen.

This section not only makes the surety liable in case the treasurer lends the money, but the duty of safekeeping being imposed upon him by § 17-24-1, both the treasurer and the surety on his official bond would be liable if he fails to do so. Accordingly, the section should be considered as reading: The treasurer and his official surety shall be liable on his official bond for the safekeeping of public moneys. If the bond does not so provide, the treasurer and his surety will nevertheless be liable. *Beaver County v. Home Indem. Co.*, 88 Utah 1, 52 P.2d 435 (1935), distinguished, *Clegg v. Metropolitan Cas. Ins. Co.*, 109 Utah 391, 174 P.2d 616 (1946).

A county treasurer and his official bondsmen are liable for failure to safely keep or account for public money which comes into treasurer's possession. The fact that such money may have been lost without the negligence or fraud of the treasurer is no defense. This doctrine of strict accountability does not extend, however, to a county treasurer while acting in a ministerial or quasi-judicial capacity. *Tooele County v. De La Mare*, 90 Utah 46, 59 P.2d 1155, 106 A.L.R. 182 (1936).

Limitation of surety's liability.

Under this section a surety on the official bond of a county treasurer cannot by contract limit its liability so as to escape liability for failure of treasurer to safely keep public money; nor is there anything in § 52-1-10 which changes this. Any stipulation, contract, or condition limiting the liability in that regard will have no force or validity. *Beaver County v. Home Indem. Co.*, 88 Utah 1, 52 P.2d 435 (1935), distinguished, *Clegg v. Metropolitan Cas. Ins. Co.*, 109 Utah 391, 174 P.2d 616 (1946).

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties §§ 233, 237.
Key Numbers. — Counties ⇨ 155.

17-24-21. Seal of county treasurers.

The county treasurer of each county shall have an official seal to be provided by the county commissioners with which to authenticate his official acts and records. It shall have inscribed thereon the words "County Treasurer — Official Seal" and the name of the county in which the treasurer holds office.

History: L. 1939, ch. 34, § 1; C. 1943
19-21-21.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 143.
Key Numbers. — Counties ⇌ 90.

CHAPTER 25

CONSTABLES

Section

17-25-1. General powers and duties.

17-25-1. General powers and duties.

Every constable shall attend the court of the justice of the peace and the circuit court within his precinct whenever so required, and within his county shall execute, serve, and return all process and notices directed or delivered to him by a justice of the peace of that county, by a circuit court serving the county, or by any competent authority, and shall perform such other duties as are prescribed by law; but in cities where a municipal department of a circuit court exists constables may serve all civil process, notices, and writs of the circuit courts for these cities.

History: R.S. 1898 & C.L. 1907, § 648; L. 1917, ch. 118, § 1; C.L. 1917, § 1627; R.S. 1933 & C. 1943, 19-22-1; L. 1977, ch. 77, § 11; 1981, ch. 90, § 1.

Compiler's Notes. — The history and origin of the office of constable is set out in *Rich v. Industrial Comm'n*, 80 Utah 511, 15 P.2d 641 (1932). It is pointed out in that case that constables have been designated from early times in the statutes of this state as precinct officers.

Cross-References. — Bond of constable, § 17-16-11.

Contracts for services of constables, § 21-3-5.

Deputies, appointment, §§ 17-16-7, 17-16-8, 77-25-5.

Election, §§ 17-16-5, 17-16-6.

Fees, § 21-3-3.

Peace officer, constable as, § 77-1-3.

Practice of law or partnership with lawyer prohibited, § 78-51-39.

Service of writs and process, including executions upon judgments, Rules of Civil Procedure, Rule 4(m).

Sheriffs' duties as to service of process, performance by constable, § 17-22-25.

COLLATERAL REFERENCES

Am. Jur. 2d. — 70 Am. Jur. 2d Sheriffs, Police, and Constables § 24.

C.J.S. — 80 C.J.S. Sheriffs and Constables § 35.

Key Numbers. — Sheriffs and Constables ⇌ 87, 95.

CHAPTER 26

COUNTY HOSPITALS

Section

17-26-1. Jurisdiction transferred to commissioners.

17-26-1. Jurisdiction transferred to commissioners.

All county hospitals established under Chapter 106, Laws of 1917, shall hereafter be under the jurisdiction of the board of county commissioners, and the office of trustees therefor is abolished.

History: Code Report; R.S. 1933 & C. 1943, 19-23-1.

Compiler's Notes. — Laws 1917, ch. 106 was repealed by the Revised Statutes of Utah, 1933. See § 68-2-3.

Cross-References. — Construction of county hospitals, §§ 17-5-45, 17-15-3.

Health Facility Licensure and Inspection Act, § 26-21-1 et seq.

Service area providing hospital services, § 17-29-3.

COLLATERAL REFERENCES

C.J.S. — 20 C.J.S. Counties § 81.

Key Numbers. — Counties ⇄ 47.

CHAPTER 27

ZONING AND PLANNING

Section

17-27-1. Zoning power of county commissioners.

17-27-2. County planning commission — Appointment — Terms.

17-27-3. Election of chairman — Adoption of rules — Expense limitations — Technical advice.

17-27-4. Commission to adopt master plan for development — Contents.

17-27-5. General purposes in making master plan.

17-27-6. Method of adopting master plan.

17-27-7. Adoption of official map — Amendments.

17-27-7.10. Issuance of permits for buildings within mapped-street locations.

17-27-8. Public construction to be approved by planning commission — County commission may overrule.

17-27-9. Power of commission to regulate height and size of buildings and height and location of trees and

Section

other vegetation — Regulations to encourage use of solar and other forms of energy.

17-27-10. Planning commission "certification of" zoning plan to county commissioners — Public hearings.

17-27-11. Zoning districts — Regulations.

17-27-11.5. Regulation of subdivision development plans to protect access to sunlight for solar energy.

17-27-11.6. Disapproval of plats or agreements which prohibit solar or other energy devices.

17-27-11.7. Residential facility for handicapped persons permitted in county zoning district — Conditions for qualification.

17-27-12. Enforcement of regulations — Building inspectors.

17-27-13. Purpose of regulations.

17-27-14. Amending zone or zoning district.

17-27-15. Board of adjustment — Regulations — Meetings.