

1976 S.C. Op. Atty. Gen. 94 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4279, 1976 WL 22899

Office of the Attorney General

State of South Carolina

Opinion No. 4279

March 4, 1976

*1 Section 72–11.1, South Carolina Code of Laws, 1962, as amended, does not provide Workmen's Compensation coverage for inmates assigned by the Department of Corrections to County correctional facilities.

TO: William D. Leeke
Department of Corrections

QUESTION PRESENTED:

Is an inmate within the jurisdiction of the Department of Corrections within the purview of Section 72–11.1, even though such inmate has been assigned to a County correctional facility pursuant to Section 55–321.1:1?

DISCUSSION OF ISSUE:

Benefits under the South Carolina Workmen's Compensation Law have been extended to certain inmates of the State Department of Corrections by virtue of Section 72–11.1, South Carolina Code of Laws, 1962, as amended. Section 72–11.1 restricts the term 'inmate' as follows:

For the purposes of this section, the term 'inmate' includes any person sentenced to the South Carolina Department of Corrections and who is then in the jurisdiction of the department, or any person sentenced to the county public works who has been transferred to the Department of Corrections for confinement. An inmate who has been sentenced to the Department of Corrections and who is temporarily transferred to the county public works, or to any other South Carolina law enforcement authority, or to out-of-state authorities, is not considered to be in the 'jurisdiction' of the South Carolina Department of Corrections for purposes of this section. (emphasis added).

Thus, the statute covers two classes of inmates. First, inmates sentenced to the Department of Corrections and who are within the Department's jurisdiction at the time of the injury. Secondly, inmates originally sentenced to the county public works and transferred to the Department of Corrections for confinement. Further, Section 72–11.1 denies coverage to, '... persons who are confined within the jurisdiction of the county prisons, county jails, city jails, or overnight lockups ...'

Workmen's Compensation coverage under Section 72–11.1 is based upon 'jurisdiction' of an institution over an inmate. Section 55–321.1:1, South Carolina Code of Laws, 1962, as amended, removes from consideration which institution an inmate was sentenced. Section 55–321.1:1 provides:

Notwithstanding the provisions of Section 55–321, or any other provision of law, any person convicted of an offense against the State of South Carolina shall be in the custody of the Board of Corrections of the State of South Carolina, and the Board shall designate the place of confinement where the sentence shall be served.

Since every inmate under Section 55–321.1:1 is in the custody of the State Board of Corrections, the terms 'in the jurisdiction of the Department' (State Department of Corrections) and 'within the jurisdiction of the county prisons' in Section 72–11.1 refer to the institution to which an inmate has been assigned by the Department of Corrections. Thus, an

inmate once within the custody and jurisdiction of the Department of Corrections will be removed from the jurisdiction of the Department for purposes of Section 72–11.1 if transferred to a county penal institution. Section 72–11.1 expressly removes from coverage under the statute inmates transferred temporarily from the Department of Corrections.

*2 Section 72–11.3 is a further compelling reason to exclude inmates assigned by the Department of Corrections to a county correctional facility from coverage under Section 72–11.1. Section 72–11.3 grants each county governing body the option of providing Workmen's Compensation coverage for inmates within the custody of a county penal system. The final sentence of this section states:

The provisions of this section shall permit workmen's compensation coverage only to county prisoners performing work assigned by penal officials of the county or engaged in any vocational training program and shall further apply only to prisoners serving sentences of ninety days or longer.

Thus, it is seen that the Legislature has taken steps to provide Workmen's Compensation coverage to inmates of county correctional facilities. To find that inmates transferred to county facilities from the Department of Corrections are still within the jurisdiction of the Department of Corrections under Section 72–11.1 would render Section 72–11.3 superfluous, since all persons convicted are originally placed in the custody of the State Department of Corrections. It is presumed in this State that the Legislature would not do a futile act; therefore, Section 72–11.3 must have some effect. See [Fulghum v. Bleakley](#), 177 S.C. 286, 181 S.E. 30 (1935), and [State ex rel. McLeod v. Montgomery](#), 244 S.C. 308, 136 S.E.2d 778 (1964). That effect is an option accorded county officials whether to provide Workmen's Compensation coverage to inmates within the jurisdiction of county penal institutions, including inmates assigned and transferred to a county facility by the State Department of Corrections under Section 55–321.1:1.

CONCLUSION:

The mere fact that Section 55–321.1:1 gives the Department of Corrections custody of every person convicted of an offense against this State and authorizes that the Department may designate the place of confinement does not retain jurisdiction in the Department over an inmate, under Section 72–11.1, transferred to serve his sentence in a county penal institution.

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