



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

November 6, 1997

Detective Matt Adair
Beaufort County Sheriff's Office
Post Office Box 1758
Beaufort, South Carolina 29901

Re: Informal Opinion

Dear Detective Adair:

You reference S.C. Code Ann. Sec. 23-3-460 which is a part of the Sex Offender Registration statute. Section 23-3-460 mandates that "[a]ny person required to register under this article shall be required to register annually for a period of life. The offender shall register at the Sheriff's Department in the county where he resides." You further provide the following information

[t]he Beaufort County Sheriff's Office is under the opinion that the word "annually" found in the Statute means that the offender must register within twelve months of the original registration or on the anniversary date of the initial registration. For example, if the offender registered on January 1st, 1997 he or she must again register by January 1st, 1998.

The question has arisen on a recent case of mine in which the defendant is being represented by the Public Defenders Office of Beaufort County. The Attorney involved questions the meaning of the word "annually" and maintains, in his opinion, that the statute needs clarification by the Legislature.

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The Public Defender for Beaufort County maintains that the word "annually" means that the offender must register any time in the year after his or her registration. An example used during our conversation was that if a person registers on January 1st, 1997 he or she would have to register by December 31st, 1998.

Law / Analysis

It is well recognized that the cardinal rule of statutory interpretation is to ascertain and effectuate legislative intent whenever possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). A statutory provision should be given a reasonable and practical construction consistent with the purpose and policy expressed in the statute. Hay v. S.C. Tax Comm., 273 S.C. 269, 255 S.E.2d 837 (1979). A remedial statute must be construed broadly to effectuate its purpose and penal provisions interpreted strictly. Trammell v. Victor Mfg. Co., 102 S.C. 483, 86 S.E. 1057 (1915).

Typically, the term "annually" has been seen to mean yearly or once a year, but does not in itself signify what time in the year. Phillips Petroleum Co. v. Harnly, 348 S.W.2d 856 (Court of Civ. App. 1961). However, there is authority which interprets the term "annually" in the way you have suggested. In Emery Mining Corp. v. Sec. of Labor, 744 F.2d 1411 (10th Cir. 1984), the Court opined that a regulation providing for "annual refresher training" meant every twelve months because such was consistent with the implementing statute. There, the Court pointed out the problem with an interpretation which relied simply upon the calendar year rather than a twelve month interval:

[v]iewed in light of the statute it implements, the term "annual refresher training" in the regulation must be construed as essentially a shorthand reference for this statutory language. Under Emery's calendar year construction of the regulation, a miner could be trained one year in January and retrained the following year in December, resulting in a lapse of as much as twenty-three months.

(emphasis added).

Based upon this reasoning, I think your interpretation is reasonable. The intent of the General Assembly is to insure registration by sex offenders at regular, periodical intervals. It would defeat the use of the phrase "annually" to leave open the possibility of registration in January and then again in December of the next year. Obviously, our

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courts have not had the occasion to construe the statutory language, but the type of strict construction which you propose would insure a truly "annual" registration of the sex offender, i.e. every twelve months.

I would add that amendments of the sex offender registration statute will be proposed in the coming legislative session. I will pass along your question for legislative clarification, but in the meantime, I believe your construction of twelve month intervals is reasonable and more in accord with the intent of the General Assembly.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an