



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 8, 1998

Jeffrey B. Moore, Executive Director
South Carolina Sheriffs' Association
P. O. Box 21428
Columbia, South Carolina 29221-1428

Re: Informal Opinion

Dear Mr. Moore:

You indicate that in January of this year, the General Assembly enacted H.3215 (Act 265) which amended S.C. Code Ann. Sec. 17-13-40 to expand police jurisdiction while in "pursuit" of an offender. You further state by way of background that

[s]ubsection B expanded county police authorities' jurisdiction to allow for an arrest "at a place within a contiguous county ...". At the same time, and in the same subsection, the jurisdiction of a county law enforcement officer to effect an arrest of an offender in pursuit cases is narrowed to the "unincorporated areas" of their own county.

Obviously in light of the expanded jurisdiction in a contiguous county, where an arrest may be made 'at any place,' incorporated or otherwise, such intent to narrow jurisdiction within one's own county is clearly not what was intended. Still, the language is clear and I suppose must be read literally as to its intent, whether intended or not, and despite it conflicting with longstanding law.

Our question deals with what course of action should a sheriff's deputy take when in pursuit of an offender within

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an incorporated area of their own county. Do they proceed and place the individual under arrest, as has been the standard practice, or must they request assistance from an officer from the municipality where the stop has been affected? Further, in those incorporated areas that do not have a local police force, but rely exclusively upon the sheriff's office for their public safety, are no such pursuit arrests to be made and would this apply to simple traffic violations where a uniform traffic ticket would be issued?

Obviously, this problem will be addressed next January when the General Assembly reconvenes, however the next six months are problematic and clarification is needed as soon as possible.

Law / Analysis

The title to Act 265 of 1998 provides as follows:

AN ACT TO AMEND SECTION 17-13-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A TOWN OR CITY POLICE OFFICER'S JURISDICTION WHEN HE IS IN PURSUIT OF AN OFFENDER, SO AS TO PROVIDE THAT THE OFFICER MAY ARREST AN OFFENDER WITHIN THE TOWN OR CITY'S CORPORATE LIMITS, WITHIN THE COUNTY IN WHICH THE TOWN OR CITY IS LOCATED, OR AT A PLACE WITHIN THREE MILES OF THE CORPORATE LIMITS, TO PROVIDE THAT WHEN COUNTY POLICE AUTHORITIES ARE IN PURSUIT OF AN OFFENDER FOR VIOLATING A COUNTY ORDINANCE OR STATE STATUTE COMMITTED WITHIN THE UNINCORPORATED AREAS OF THE COUNTY, THE AUTHORITIES MAY ARREST THE OFFENDER WITHIN THE UNINCORPORATED AREAS OR AT A PLACE WITHIN AN ADJACENT COUNTY, AND TO PROVIDE THAT WHEN A LAW ENFORCEMENT OFFICER'S JURISDICTION IS EXPANDED, CERTAIN AUTHORITY, RIGHTS, PRIVILEGES, AND IMMUNITIES THAT ARE APPLICABLE TO AN OFFICER

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EMPLOYED WITHIN HIS JURISDICTION ARE EXTENDED
TO HIS EXPANDED JURISDICTION.

The text of the statute reads:

SECTION 1. Section 17-13-450 of the 1976 Code is amended to read:

"Section 17-13-40. (A) When the police authorities of a town or city are in pursuit of an offender for a violation of a municipal ordinance or statute of this State committed within the corporate limits, the authorities may arrest the offender, with or without warrant, at a place within the corporate limits, at a place within the county in which the town or city is located, or at a place within a radius of three miles of the corporate limits.

(B) When the police authorities of a county are in pursuit of an offender for a violation of a county ordinance or statute of this State committed within the unincorporated areas of the county, the authorities may arrest the offender with or without a warrant, within the unincorporated areas or at a place within an adjacent county.

(C) When a law enforcement officer's jurisdiction is expanded pursuant to this section, the authority, rights, privileges, and immunities, including coverage under the worker's compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78, Title 15, that are applicable to an officer within the jurisdiction in which he is employed are extended to and include the expanded areas of jurisdiction granted pursuant to this section." (emphasis added).

A number of principles of statutory construction are relevant to your inquiry. First and foremost, in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). An enactment 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

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(1979). Words used therein should be given their plain and ordinary meaning. First South Sav. Bank v. Gold Coast Associates, 301 S.C. 158, 390 S.E.2d 486 (Ct. App. 1990).

Furthermore, a court will reject the meaning of the words of a statute which will lead to absurd consequences. Robson v. Cantwell, 143 S.C. 104, 141 S.E. 180 (1928). While the plain meaning and literal language rule normally is applicable, the real purpose and intent of the lawmakers will prevail over the literal import of the words. Caughman v. Cola. Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). The context of the statute must be examined as part of the process of determining the intent of the General Assembly. Hancock v. Southern Cotton Oil Co., 211 S.C. 432, 45 S.E.2d 850 (1948). The Court must presume that the Legislature intended by its action to accomplish something and not do a futile thing. State ex rel. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964).

Furthermore, in construing a statute, it is proper to consider legislation dealing with the same subject matter. Fidelity and Cas. Ins. Co. of N.Y. v. Nationwide Ins. Co., 278 S.C. 332, 295 S.E.2d 783 (1982). Statutes dealing with the same subject matter must be reconciled, if possible. Bell v. S.C. State Hwy. Dept., 204 S.C. 462, 30 S.E.2d 65 (1944). Different statutes in pari materia, though enacted at different times, and not referring to each other must be construed together as one system and as explanatory of each other. Fishburne v. Fishburne, 171 S.C. 408, 172 S.E. 426 (1934).

Finally, the implied repeal of a law is disfavored. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970). The presumption is always against implied repeal when express terms of repeal are not used. E.M. Matthews Co. v. Atlantic Coast Line Ry. Co., 102 S.C. 494, 86 S.E. 1069 (1915).

Based upon the foregoing, it is my opinion that the General Assembly did not intend to alter the law relating to the pursuit of an individual within incorporated areas of a deputy sheriff's home county. Clearly, the statute was intended to relate only to pursuit situations and not other law enforcement activities. Secondly, the statute was intended to expand the jurisdiction of law enforcement officers rather than in any way narrow or restrict such jurisdiction from its previous scope. Thus, to conclude that a county officer now, as a result of the statute, could not pursue an offender in an incorporated area would result in a narrowing of the jurisdiction of a county officer in this respect. I do not believe such is consistent with the intent of the General Assembly.

Furthermore, as you point out, it would make no sense to bestow upon a county officer broader jurisdiction in pursuit situations in an adjacent county than the officer

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would possess in his home county. Subsection (B) now authorizes the officer to pursue "at a place" within "an adjacent county" meaning there were no limitations upon the officer's pursuit anywhere in the adjacent county. It would constitute a complete anomaly to broaden the officer's pursuit authority in an adjacent county, yet actually narrow such pursuit jurisdiction in the deputy's own county.

Finally, any ambiguity created by Subsection (B) is resolved by reference to the officer's general jurisdictional authority.

S.C. Code Ann. Sec. 23-13-60 provides that deputy sheriffs

... may for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, arrest without warrant and, in pursuit of the criminal, enter houses or break and enter them, **whether in their own county or in an adjoining county.** (emphasis added).

Section 23-13-70 authorizes deputy sheriffs to "patrol the entire county ...". Section 17-13-30 further authorizes Sheriffs and the deputies to "arrest without warrant any and all persons who, within their view, violate any of the criminal laws of this State if such arrest be made at the time of such violation of law or immediately after." Based upon these statutes as well as the common law we have stated that

... it is clear that a sheriff and his deputies who, pursuant to Section 23-13-50 of the Code, are authorized to perform any and all duties of the sheriff, have jurisdiction throughout their respective counties Therefore, a sheriff and his deputies **would have full law enforcement authority in any area of his county**

(emphasis added). In that same opinion, we also observed that "'(s)ince the sheriff is a county officer, his authority extends over the entire county, and includes all ... (political subdivisions) within his county.'"

Accordingly, it would, in my judgment, make little or no sense to conclude that Subsection (B) of Act No. 265 removes a county deputy sheriff's authority to pursue offenders and make arrests of such offenders within the incorporated limits of a municipality in the deputy's own county. The intent of the statute is to expand the deputy's jurisdiction, not limit it. To reach any other conclusion would give a deputy greater pursuit authority in an adjacent county than he possessed in his home county.

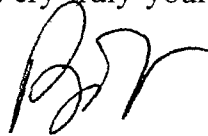
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Such would result in an absurdity and this Office declines to adopt such a construction. Regardless of the ambiguities in Act No. 265, however, the bottom line is that a deputy sheriff possesses full law enforcement authority (pursuit and otherwise) over his **entire county**. Act No. 265 does not purport to affect such countywide jurisdiction and does not do so. Thus, the county sheriff and his deputies retain, as always, the authority and jurisdiction to pursue and arrest offenders in incorporated areas of their home county as part of their full countywide jurisdiction.

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