

The State of South Carolina



Office of the Attorney General

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January 10, 1991

The Honorable Sue R. Townsend
Coroner, Aiken County
Post Office Box 1469
Aiken, South Carolina 29801

Dear Coroner Townsend:

In a letter to this Office you requested an opinion as to whether coroners are eligible for training and certification at the State Criminal Justice Academy (hereafter the Academy) pursuant to the provisions of Sections 23-23-10 et seq. of the Code. This Office has received a copy of a letter to you from the Executive Director of the Academy responding to your letter. In Mr. Johnson's letter it is stated:

... I felt it incumbent upon me to write a clarification of this agency's position in the matter pertaining to the training and certification of coroners in this state. It is evident that you have woven together the issues of training and certification.

The issue of certification is separate from the issue of training. I would continue to maintain that Coroners do not meet the definition of a law enforcement officer as set out in the Training Act, and therefore, this agency cannot certify them.

However, it is not and has never been our position that because we can not certify Coroners, we can not offer training assistance.

Any questions regarding clarification on the type training being offered should be referred to Mr. Johnson.

In your letter you point out several bases in support of your position that a coroner should be considered a "law enforcement officer." However, for purposes of training at the Academy, reference should be made to the definition set forth in Section 23-23-

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10(D) where it is stated

Whenever used in this article, and for the purposes of this article, unless the context clearly denotes otherwise:

- (1) "law enforcement officer" means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed; (emphasis added.)1/

As I indicated in our telephone conversation, pursuant to Article V, Section 24 of the State Constitution and Section 17-5-10 of the Code, the position of coroner is considered an elective office. Therefore, a coroner would not be included within the definition of a "law enforcement officer" for purposes of Sections 23-23-10 et seq. 2/ Of course, legislative change could be sought so as to

1/ Such definition is distinguishable from the definition of a "police officer" for purposes of the retirement system as set forth in Section 9-11-10(6). Such provision defines a "police officer" as

... any person who receives his salary from an employer and who is required by the terms of his employment, either by election or appointment, to give his time to the preservation of public order, the protection of life and property and the detection of crimes in this State....

2/ Such construction is consistent with a prior opinion of this Office dated August 18, 1971 which stated

The constitutional office of coroner is quasi-judicial in nature and, although some investigative duties are attached, the duties are closer

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specifically provide for inclusion of coroners within the definition of a law enforcement officer for purposes of such statutory provisions. Any such change would solely be a matter for consideration by the General Assembly.

Aside from the question of training as a law enforcement officer, Section 23-23-10(A) states

In order to insure the public safety and general welfare of the people of this State, and to promote equity for all segments of society, a program of training for law enforcement officers and other persons employed in the criminal justice system in this State is hereby proclaimed and this article must be interpreted so as to achieve these purposes principally through the establishment of minimum standards in law enforcement selection and training.

Subsection (C) of such provision states:

It is the intent of the General Assembly in creating a facility and a governing council to maximize training opportunities for law enforcement officers and criminal justice personnel, to

2/ Continued from Page 2

to the judicial branch than that of the executive (law enforcement). Our laws relating to the carrying of pistols do not exempt a coroner, nor does the law of the State bestow upon the coroner authority as a peace officer.

Of course, by legislation enacted in 1975, now codified as Section 17-5-110 of the Code, coroners were given the authority to carry a pistol while engaged in the official duties of their office.

Sheriffs, who are also considered to hold elective offices pursuant to Article V, Section 24 and Section 23-11-10 of the Code, also do not come within the definition of a "law enforcement officer" for purposes of Sections 23-23-10 et seq. Section 23-23-10(B) states in part "... nor, unless specifically stated, may anything herein be construed to affect any sheriff, constable or other law enforcement officer elected under the provisions of the Constitution of this State." However, pursuant to Section 23-11-110 of the Code, requirements have been established for mandatory training of sheriffs.

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coordinate training, and to set standards for the law enforcement and criminal justice service, all of which are imperative to upgrading law enforcement to professional status.

Therefore, provisions are made for training individuals in the "criminal justice system" or "criminal justice personnel". Such may have been the basis for Mr. Johnson's offer of training for coroners as set forth in his recent letter.

As to your question regarding certification by the Academy of coroners, it is my understanding that only law enforcement officers as defined above are eligible for "certification" by the Academy. The title to Act No. 60 of 1989 from which Sections 23-23-10 et seq. are taken states that such Act is

AN ACT TO AMEND ARTICLE 1, CHAPTER 23, TITLE 23, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL AND TO CERTAIN REQUIRED TRAINING OF LAW ENFORCEMENT OFFICERS ... TO PROVIDE THAT NO LAW ENFORCEMENT OFFICER EMPLOYED OR APPOINTED AFTER JULY 1, 1989, IS EMPOWERED TO ENFORCE THE LAWS OF THIS STATE OR A POLITICAL SUBDIVISION THEREOF UNLESS HE HAS BEEN CERTIFIED AS QUALIFIED BY THE COUNCIL AND TO PROVIDE CERTAIN EXCEPTIONS, TO PROVIDE THE REQUIREMENTS FOR CERTIFICATION AND TRAINING AND FOR THE DURATION OF CERTIFICATION.... (emphasis added.)

Generally, a cardinal rule of statutory construction is that a court must ascertain and effectuate the actual intent of the legislature. Burns v. State Farm Mut. Auto. Ins. Co., 297 S.C. 520, 377 S.E.2d 569 (1988). Courts generally consider the title of an act in aid of construction to show the intent of the legislature. Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972). When the title of an act definitely and specifically limits its subject, the operation of the act must be limited to the subject expressed in the title. State v. Blease, 95 S.C. 403, 79 S.E. 247 (1913). The statement in the title to Act No. 60 is quite clear in specifying certification of law enforcement officers. It is my understanding that while magistrates may receive training at the Academy, they do not receive certification by the Academy. Sections 23-23-10 et seq. repeatedly refer to certification of law enforcement officers. See: Section 23-23-40 ("No law enforcement officer employed or appointed on or after July 1, 1989, by any public law enforcement agency in this State is authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has been certified as qualified by the council");

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Section 23-23-50(B) ("All city and county police departments, sheriffs' offices, state agencies, or other employers of law enforcement officers having such officers as candidates for certification"); Section 23-23-50(C) ("A certificate as a law enforcement officer issued by council"); Section 23-23-60 ("The Council is authorized to ... certify and train qualified candidates and applicants for law enforcement officers and provide for suspension, revocation, or restriction of the certification ... (and) ... provide by regulation for mandatory continued training of certified law enforcement officers"). The only provision that is somewhat ambiguous is Section 23-23-50(A) which states

At the request of any public law enforcement agency of this State the council is hereby authorized to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this article. Members of the council may individually or collectively visit and inspect any training school, class, or academy dealing with present or prospective law enforcement officers, and are expected to promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication. The council may, in its discretion, or upon request, make recommendations to the General Assembly or to the Governor regarding the carrying out of the purposes, objectives, and intentions of this article or other acts relating to training in law enforcement.

While there is authorization "... to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this article ...", there are no accompanying statutory requirements relating to training other than those set forth in Sections 23-23-10 et seq. relating to law enforcement officers. In particular, there is no specific reference to training or certification of elected officials, such as coroners. Again, Section 23-23-10 notes that "Nothing herein may ... be construed to affect any sheriff, constable or other law enforcement officer elected under the provisions of the Constitution of this State." (Compare, the requirements of Section 23-31-10 for mandatory training of Sheriffs.) Moreover, as noted, the Law Enforcement Training Council is only authorized pursuant to Section 23-23-60 to certify and train law enforcement officers. Reference may also be made to the provision authorizing the issuance of "certificates and other appropriate indicia of compliance and qualification." Therefore, there may be a basis for distinguishing between certification and other recognition of accomplishment.

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In summary, this Office is unable to conclude that a coroner would be included within the definition of a "law enforcement officer" for purposes of Sections 23-23-10 et seq. Such provisions do however refer to training for individuals in the "criminal justice system." The Academy has indicated that training can be offered coroners. Questions regarding the type training that will be offered should be referred to the Academy. As to questions regarding certification of coroners by the Academy, it is our conclusion that only "law enforcement officers" as defined by Section 23-23-10(D) may be certified. Of course, legislative clarification or amendment could be sought if it is desirable that coroners be obligated to receive a specified course of training at the Academy and receive certification as a result of such training.

If there is anything further, do not hesitate to contact me.

Sincerely,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions