

The State of South Carolina



Office of the Attorney General

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April 3, 1991

The Honorable Ray Isgett
Sheriff, Berkeley County
300 California Avenue
Moncks Corner, South Carolina 29461

Dear Sheriff Isgett:

In a letter to this Office, you referenced that pursuant to Section 14-15-210 of the Code

The sheriffs of the respective counties in this State shall be empowered to appoint as many bailiffs as they see fit, not to exceed five in number, whose duties shall be as now provided by law. The bailiffs may be removed, increased or decreased by the circuit judge within his discretion.

You referenced that in Berkeley County the previous sheriff allowed the clerk of court to employ bailiffs. You have asked whether you are barred by the decision of the previous sheriff or may you regain hiring and supervisory authority over bailiffs.

A prior opinion of this Office dated August 29, 1980, a copy of which is enclosed, responded to the question as to whether bailiffs are the responsibility of the clerk of court or the sheriff. The opinion stated

Court bailiffs are employed by the sheriffs of the counties and the numbers of bailiffs, as well as their removal, would be subject to the determination of the circuit judge, in his discretion.

As to the situation where the present bailiffs were appointed by the clerk of court, any action toward removing these individuals should be referred to the circuit judge. Such would be the initial step in regaining your authority as sheriff over bailiffs.

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You also questioned the extent to which bail bondsmen must be allowed to go "cell to cell" to determine a prisoner's need for a bondsman. You indicated that you have stopped the practice.

Section 38-53-170 of the Code provides

No bail bondsman or runner may ... solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere ... must be reported to the ... (Insurance) ... Commissioner by the court within thirty days.

A violation of such provision is a misdemeanor offense. See: Section 38-53-340 of the Code. Moreover, pursuant to Section 38-53-150 of the Code, the Insurance Commissioner may deny, suspend, revoke or refuse to renew a license for "a violation of any laws of this State relating to bail in the course of dealings under the license issued ... by the Commissioner." You may wish to contact the Insurance Commissioner's office regarding any questions concerning a licensed bail bondsman.

If there is anything further, please advise.

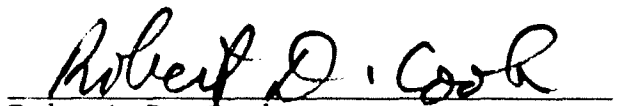
Sincerely,



Charles H. Richardson
Assistant Attorney General

klw
Enclosure

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions