

## The State of South Carolina



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The Honorable Jackson V. Gregory  
Member, House of Representatives  
Box 1217  
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Dear Representative Gregory:

In a letter to this Office you referenced the situation where an individual who in 1982 successfully completed the training course at the State Criminal Justice Academy as a highway patrolman was unable to complete a recent refresher course which was taken in association with his having accepted a job as a deputy sheriff. In between the positions as highway patrolman and deputy sheriff the individual did private security work. You have questioned whether the State Law Enforcement Training Council has the authority to require completion of a recertification process such as the refresher course required in the above situation.

Various provisions of Sections 23-23-10 et seq. of the Code reference the establishment of a course of training at the State Criminal Justice Academy. Section 23-23-10 (A) states in part:

(i)n order to insure the public safety and general welfare of the people of this State, ... a program of training for law enforcement officers ... is hereby proclaimed and this article shall be interpreted so as to achieve such purposes principally through the establishment of minimum standards in law-enforcement selection and training.

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Section 23-23-10(c) provides in part that:

(i)t is the intent of the legislature in creating ... (a law enforcement training) ... facility and a governing council to maximize training opportunities for law enforcement officers and criminal justice personnel, to 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.

Pursuant to Section 23-23-20, administration of the law enforcement training academy is vested in a director responsible for the content of the courses taught at the Academy and the enforcement of minimum standards for certification of law enforcement officers and such other matters as agreed upon by the Law Enforcement Training Council.

Section 23-23-40 states:

(n)o law enforcement officer employed or appointed on or after January 1, 1972, by any public law enforcement agency in this State shall be empowered or authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has, within one year after his date of appointment, successfully completed the minimum basic training requirements established pursuant to this article.

The Law Enforcement Training Council is directed to make the determination that an applicant has met the requirements for certification by the Academy. § 23-23-50(A). Among such requirements are "... successful completion of a course of police training as established and approved by the ... (Law Enforcement Training) ... Council...." (emphasis added.) Section 23-23-50(B)(3).

It is clear, therefore, that one of the primary purposes of the law enforcement training legislation was to insure that the caliber of individual serving as a law enforcement officer was closely regulated so as to upgrade the status of those individuals serving as law enforcement officers. In establishing such

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regulations, it was recognized that certain minimum standards must be established and adhered to so as to accomplish the intentions of the legislation. Inherent in the maintenance of certain minimum standards is the necessary factor of providing certain individuals with the responsibility of monitoring such standards and insuring compliance with them.

Arguably, Section 23-23-40 is ambiguous and susceptible to various interpretations as to the amount of training required of individuals serving as law enforcement officers. Such interpretations range from having to attend the Academy only once in an individual's entire law enforcement career to having to attend each time an individual changes employment with a law enforcement agency. This Office is informed that such provision has been interpreted to require law enforcement officers who previously have successfully completed the course of training offered by the State Criminal Justice Academy and who do not have more than a three year break in service as a law enforcement officer to complete only a portion of the course of training required of those officers undergoing initial law enforcement training. Referencing the statutes cited above, this Office is unable to conclude that such a construction of training requirements is clearly erroneous. Moreover, it is generally held that the longstanding interpretation of statutes by those charged with their administration is entitled to great weight. Etiwan Fertilizer Co. v. S. C. Tax Commission, 217 S.C. 354, 60 S.E.2d 682 (1982); Sutherland Statutory Construction, Vol. 2A Section 49.05 and Vol. 3 Section 65.05; Ops. of the Att'y. Gen. dated May 21, 1987, January 8, 1987, and March 19, 1985. Therefore, the determination by the Academy that individuals who have had a break in service as law enforcement officers must undergo some retraining would be entitled to great weight. Also, such a construction is consistent with the statement by the court in Jakubec v. Bloomingdale Fire Protection District No. 1, 493 N.E.2d 717 at 720 that:

(a)n efficient public service requires competently trained personnel, and those in authority must have the power to carry out such programs of training and retraining as are necessary to maintain a high quality public service.

See also: Zinser v. Board of Fire and Police Commissioners, 172 N.E.2d 33 (1961).

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Referencing the above, we would advise that the Law Enforcement Training Council possesses the discretionary authority to oversee the type of training required of law enforcement officers in this State. This would include the authority to require certain retraining of an individual who previously successfully completed the course of training at the State Criminal Justice Academy and who does not have more than a three year break in service as a law enforcement officer. Therefore, as to your situation, successful completion of the refresher course by the individual referenced in your letter could be required.

If there is anything further, please advise.

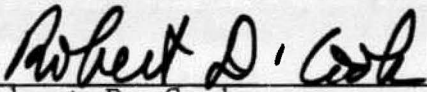
Sincerely,



Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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