

The State of South Carolina



Office of the Attorney General

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April 7, 1987

Honorable Ryan C. Shealy
Senate District No. 24
Post Office Box 142
Columbia, South Carolina 29201

Re: Opinion No. 2686
Use of County Prisoners for Litter Control

Dear Senator Shealy:

You have inquired of this office about the constitutionality of a proposal that, upon request of a county council, the sheriff (jail custodian) shall furnish county prisoners to pick up litter along the highways and have a sentence reduction.

This proposal is already available under our present law in South Carolina. In 1978, the General Assembly passed the following legislation:

§ 24-3-35 Use of county prisoners for litter removal functions.

The governing body of any county in this State may allow prisoners under the county's jurisdiction who are housed in a county prison facility and who are serving a sentence of ninety days or less to perform litter removal functions within the county. The governing body of each county by ordinance shall be authorized to and shall establish guidelines for such

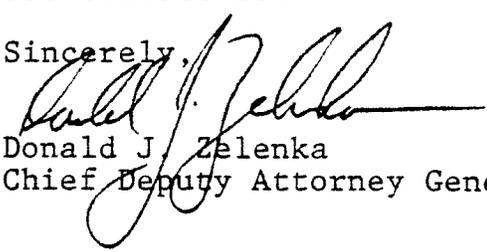
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litter removal by prisoners, which guidelines shall include a provision for a reduction of the sentence of the prisoners so used not to exceed a one-day reduction of the sentence for each two days of litter removal work performed.

This provides for the same structure that you suggest and puts the burden on the county council to pass an ordinance to authorize and establish the guidelines for the litter removal within each county which would be required under your suggestion.

My review of the state and federal constitutions also reveals no impediment to the development of a litter removal program under § 24-3-25. Since you suggest the plan to be for non-violent prisoners, you may wish to amend § 24-3-25 to only apply to non-violent crimes as defined in § 16-1-70. If you have any questions, please contact me.

Sincerely,


Donald J. Zelenka
Chief Deputy Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions