

1980 WL 121199 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 29, 1980

*1 The Honorable William M. Bruner
Recorder
City of North Myrtle Beach
Post Office Box 190
805 2nd Avenue North
North Myrtle Beach, South Carolina 29582

Dear Judge:

I am writing in response to your request for an Opinion from this Office, dated April 14, 1980. Your request concerns whether or not individuals who trespass into the beach homes of North Myrtle Beach residents may be charged with having committed an offense, although measurable damage to any of the premises is negligible.

From your request, it appears that certain individuals enter the beach home property of others for the purposes of locating a shortterm shelter, at least until they are discovered either by the local law enforcement officials, or the owners of the property.

A review of the law of the State of South Carolina makes it clear that individuals engaged in the aforementioned conduct may not be charged with the offense of trespass as it is embodied within [§ 16-11-510, et. seq., Code of Laws of South Carolina \(1976\)](#). A number of those provisions have a notice or warning requirement which must be posted or given to the offender orally before law enforcement may properly charge these persons with an offense § 16-11-600 and § 16-11-620.

Additional temporary provisions by the terms of their language do not pertain to conduct which is the focus of this opinion. § 16-11-520; § 16-11-530; § 16-11-580; § 16-11-610; § 16-11-630; § 16-11-640.

There are various other trespassory statutory provisions in the Code of Laws, however, they do not pertain to the factual situations in question.

Additionally, the conduct of entering the home of another for the temporary purpose of seeking shelter is not a criminal offense under the laws of the State of South Carolina. In order for Sections 16-11-320 and 16-13-170 to be applicable to the facts of this case, criminal intent, which is intent to commit a crime, must be found. Upon the facts as submitted, it would be difficult to find such criminal intent to commit a crime.

It is therefore, the Opinion of this Office that the trespassory statutory provisions as embodied within [§ 16-11-510](#), et. seq., and the various additional trespassory provisions of the Code of Laws are not presently applicable to the facts of the present case.

It is also the Opinion of this Office that the entering of a dwelling for the purpose of seeking shelter is not presently a criminal offense, because the requisite intent to commit a crime is absent under the facts of this case.

I would recommend that you meet with your State Representative to discuss amending the trespassory laws in order that situations as you have described will be adequately resolved in the future. I would also advise that the City of North Myrtle Beach post notices upon the beach homes in question, in accordance with [§ 16-11-600 of the Code of Laws](#), or issue warnings in accordance with [§ 16-11-620 of the Code of Laws](#). Such would help to remedy future problems of trespass upon private

property, in that once the aforementioned statutory provisions have been complied with, offenders thereunder may be charged under the statutory provisions.

Sincerely,

*2 Wayne G. Carter, Jr.
Staff Attorney

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