

1977 S.C. Op. Atty. Gen. 168 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-217, 1977 WL 24559

Office of the Attorney General

State of South Carolina

Opinion No. 77-217

July 11, 1977

*1 TO: L. Edmund Atwater, III
S. C. Court Administration

QUESTION:

Is payment, under the Defense of Indigents Act Fund, of expenses and fees to public defenders and appointed counsel for representation of persons charged with murder precluded by Section 3, paragraphs (B) and (C) of Act 177 of 1977?

STATUTES AND CASES:

S. C. Code of Laws (1976), §§ 17-23-70, 17-3-20, 17-3-50; 1977 Act No. 177, § 3(B)(C); Sutherland Statutory Construction, Vol. 1A § 23.09, Vol. 2, § 34.03 (1973).

DISCUSSION:

The 1976 Code of Laws of South Carolina provides in Section 17-3-50 that compensation of counsel appointed for the defense of indigents shall not exceed \$750.00. This section was brought forward into the current Code from the 1962 Code, therefore, it has been in existence for a long period of time.

The Act of 1977, No. 177 amending Section 16-52 of the 1962 Code, conflicts with the sections in Chapter 17, §§ 17-23-70, 17-3-20, 17-3-50, dealing with compensation of counsel.

Where a conflict between a previous statute and subsequent Act is readily apparent, the later enactment impliedly repeals the existing law; where irreconcilable conflict exists, the latest legislative expression prevails.

CONCLUSION:

As Act No. 177 of 1977 is in conflict with the earlier Code provision establishing a maximum compensation for appointed counsel, Act No. 177 controls the amount and method of compensation and costs to be paid.

A. Camden Lewis
Assistant Attorney General

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