

1979 WL 43142 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 29, 1979

*1 W. Edward Mullineaux, Esquire
South Carolina Court Administration
Post Office Box 11788
Columbia, South Carolina 29211

Dear Mr. Mullineaux:

In a letter to this Office you requested an interpretation of [Sections 16-13-111](#) and [34-11-95\(a\)](#), [Code of Laws of South Carolina](#), 1976, as amended, which requires the reporting of shoplifting and fraudulent check offenses to the South Carolina Law Enforcement Division. [Section 34-11-95\(a\)](#) states in part:

‘(a) first offense prosecution or second offense resulting in a conviction for violation of Section 34-11-60 shall be reported by the court hearing the case to the Communications and Records Division of the South Carolina Law Enforcement Division which shall keep a record of such conviction.’

[Section 16-13-111](#) is similarly phrased as to shoplifting violations. You have asked specifically whether such statutes require the reporting of all first offense prosecutions, regardless of the result, or just those first offense prosecutions which result in convictions? You stated that you thought it was clear that all second offense convictions be reported but questioned whether second offense prosecutions should also be reported.

Please be advised that in the opinion of this Office an interpretation of such sections in their entirety results in the conclusion that it was intended that all convictions for first and second offense shoplifting and fraudulent check violations should be reported to SLED. It is not necessary that all first or second offense prosecutions be reported, regardless of the result. You will note that the referenced sections state that SLED ‘shall keep a record of such conviction.’ This conclusion as to fraudulent check offenses is also supported by Section 34-11-90(e) which states that a defendant convicted of a first offense fraudulent check violation may apply to the court for an order ‘. . . expunging the records of the arrest and conviction.’ (Emphasis added.) No reference is made to the expungement of any record of a ‘first offense prosecution.’

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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