

1979 WL 43246 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 21, 1979

***1 RE: Exemptions from serving on juries.**

The Honorable Isadore E. Lourie
Post Office Box 11548
Columbia, South Carolina 29201

Dear Senator Lourie:

Pursuant to the request contained in your letter of October 30, 1979, we have reexamined the Attorney General's opinion written by Ms. Katherine W. Hill on September 11, 1979, concerning jury duty exemptions for state mental health facility employees. Furthermore, as you requested in your letter, we have attempted to discuss this matter with the Clerk of the South Carolina Senate, but were unable to receive any information from his office in this regard. After thoroughly considering this question, we have determined not to revise our previous opinion.

As the opinion authored by Ms. Hill indicates, the 1978 General Assembly amended [Section 14-7-850 of the 1976 Code of Laws of South Carolina](#) in regard to groups receiving exemptions from service on juries. Act No. 579 of the 1978 Acts and Joint Resolutions of South Carolina modified a list of groups receiving such exemptions by removing some groups from that list. [Section 14-7-850 of the 1976 Code](#), as amended, no longer includes employees and officers of state mental health facilities within this list. However, Section 44-11-90 provides that 'all officers and employees of state mental health facilities shall be exempted from serving on juries and from all state military duties.' Because of this separate exemption for state mental facility employees, it was the opinion of this office that this particular exemption would remain in effect.

It is important to note that [Section 14-7-850 of the 1976 Code of Laws of South Carolina](#), does not provide an exhaustive list for exemptions from jury service. For instance, licensed and practicing dentists and dental hygienists are exempted pursuant to [Sections 14-7-860](#) and [40-15-350](#) of the Code. Furthermore, employees of the various institutions of the Department of Corrections, as well as the Department itself, are excluded from jury service by [Section 24-3-930 of the Code](#). Therefore, [Section 14-7-850 of the Code](#) simply provides a general list for persons exempted from serving as jurors, which must be considered in conjunction with the other Code sections on this subject.

It is clear from the language of Act No. 579 of 1978 that Section 44-11-90 of the Code was not expressly repealed. Therefore, that Code section could only have been repealed by Act No. 579 of 1978 by implication. However, this doctrine of statutory construction is not favored and should not be applied unless no other reasonable construction exists. See [State ex rel. Daniel R. McLeod v. Ellisor](#), 259 S.C. 364, 192 S.E. 2d 188 (1972); [State ex rel. Daniel R. McLeod v. Mills](#), 256 S.C. 21, 180 S.E. 2d 638 (1971); [Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E. 2d 376 (1970); Southerland, [Statutory Construction](#), Section 23.10 (4th ed. 1972). Therefore, it is the opinion of this office that Section 44-11-90 of the 1976 Code is similar to [Sections 24-3-930](#), [14-7-860](#), and [40-15-350](#) in its effect as a supplementary statute to the general provisions in regard to jury exemptions contained in [Section 14-7-850 of the 1976 Code](#).

***2** Please do not hesitate to contact me if I might be of any further assistance in regard to this matter.

Very truly yours,

Keith M. Babcock
Assistant Attorney General

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