

September 27, 2007

The Honorable Randy Scott
Senator, District No. 38
107 Cleveland Street
Summerville, South Carolina 29483

Dear Senator Scott:

In a letter to this office you requested an opinion on behalf of Mr. T.C. Limehouse who questioned processing fees being charged by the Dorchester County Sheriff's Department. In his letter, Mr. Limehouse stated that when an individual is arrested and booked in Dorchester County, a fifteen dollar "processing fee" is assessed. Such occurs prior to any judicial determination of guilt or innocence. The fee is not refunded should the charges be dropped or the person is found innocent. The fee is charged regardless of whether the defendant has cash on his person. If the individual does not have sufficient funds, an account is opened in that individual's name showing a balance owed.

Apparently, during the 2001 session of the General Assembly, legislation was introduced which would have authorized the adoption of a prisoner reimbursement policy for a jail that would have required a person confined to jail to reimburse the county for expenses it incurred during that person's confinement. However, such legislation never passed the General Assembly.

Enclosed is a copy of a prior opinion of this office dated August 29, 2003 which dealt with the question of the practice of jails charging fees, such as booking fees to cover administrative costs associated with the booking process, or a clothing fee to cover the costs which are associated with cleaning and replacing clothing worn by inmates. Reference was made to S.C. Code Ann. § 24-13-80 which specifically provides for the payment of certain costs by prisoners. Pursuant to that provision, deductions from money credited to inmate accounts may be used to repay costs of public property wilfully damaged or destroyed by an inmate during incarceration, medical treatment for injuries inflicted by the inmate upon himself or others, costs for searches for and apprehension of an inmate when he escapes or attempts to escape and costs for quelling a riot or other disturbance in which an inmate is unlawfully involved. Also amounts may be assessed to defray costs paid by a municipality or county for elective medical treatment of an inmate. S.C. Code Ann. § 24-13-910 authorizes a program under which a person convicted of an offense and confined in prison may, upon sentencing and while being confined, be allowed to work at paid employment in the community, be

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assigned to public works employment or continue his education. Section 24-13-930(C) provides for deductions from inmates under a work/punishment program of earnings to offset costs to the local facility for providing food, lodging, supervision, clothing and care to the inmate.

However, I am unaware of any basis for the assessing of a processing fee for individuals arrested and booked in the jail. The opinion concludes that

...the legislature has specifically provided for the payment of certain fees and reimbursements by inmates. Also, there are general duties of counties to provide for inmates in specified areas. It appears, therefore, that the State has preempted the matter of fees or reimbursements to be collected from inmates. As a result, while only a court could declare any particular ordinance invalid, it would be very questionable as to whether sheriffs or counties are authorized to collect from prison inmates separate fees or reimbursements beyond those specifically authorized by the legislature.

Consistent with such, I am unaware of any basis for Dorchester County to charge a fifteen dollar "processing fee" when an individual is arrested and booked in Dorchester County.

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General