



HENRY McMASTER
ATTORNEY GENERAL

September 30, 2008

David B. King, Chief of Police
Town of Honea Path
30 North Main Street
Honea Path, South Carolina 29654

Dear Chief King:

In a letter to this office you questioned whether an individual can be accepted into a pretrial intervention program without being arrested.

S.C. Code Ann. §§ 17-22-10 et seq. is this State's "Pretrial Intervention Act". As stated in a prior opinion of this office dated February 23, 2004,

The Pretrial Intervention program (PTI) is established by statutory enactment...(and)...allows certain eligible offenders, upon completion of the Program to effect a noncriminal disposition of the charge or charges pending... The program is founded upon the Circuit Solicitor's broad prosecutorial discretion to dispose of criminal charges.

Several provisions of that Act specifically reference an individual being arrested prior to admission to a pretrial intervention program. Section 17-22-80 states that

[p]rior to any person being admitted to a pretrial intervention program the victim, if any, of the crime for which the applicant is charged and the law enforcement agency employing the arresting officer shall be asked to comment in writing as to whether or not the applicant should be allowed to enter an intervention program. (emphasis added).

Pursuant to Section 17-22-100

[a]n offender must make application to an intervention program or to the chief administrative judge of the court of general sessions no later than seventy-five days after service of the warrant or within ten days following appointment of counsel for the charge for which he makes the application. (emphasis added).

Section 17-22-150(a) states that

[i]n the event an offender successfully completes a pretrial intervention program, the solicitor shall effect a noncriminal disposition of the charge or charges pending against the offender. Upon such disposition, the offender may apply to the court for an order to destroy all official records relating to his arrest and no evidence of the records pertaining to the charge may be retained by any municipal, county, or state entity or any individual, except as otherwise provided in Section 17-22-130. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest. No person as to whom the order has been entered may be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest in response to any inquiry made of him for any purpose. (emphasis added).

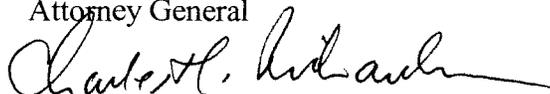
Furthermore, Section 17-22-50 provides that certain persons shall not be considered for the PTI program if they are “charged with” certain named offenses.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

Consistent with the above, in the opinion of this office, an individual can be accepted into a pretrial intervention program only after being arrested.

Yours very truly,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General