



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

July 10, 2003

HENRY McMASTER
ATTORNEY GENERAL

The Honorable Thad Viers
Member, House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Viers:

You have requested an advisory opinion from this Office concerning a municipality's use of its Victims' Advocate Fund for the purpose of providing services to non-crime victims. You have indicated that the Victims' Advocate Fund for the City of Myrtle Beach is currently used to assist CASA and other non-profits for buildings and personnel. You have further indicated that this past spring, the local chapter of the American Red Cross applied for money from the Fund to be used for fire victims, but the City of Myrtle Beach stated that the Fund could not be used for non-crime victim services. Accordingly, you have inquired as to the legality of a municipality's use of its Victims' Advocate Fund to give to non-profit organizations, such as the American Red Cross, that use the money for services to fire victims in the community.

Law/Analysis

First and foremost, it is important to understand that municipal victims' advocate funds are a creation of statute, and moreover the General Assembly has specifically addressed the issue of how these funds are to be generated and used. Therefore, as a matter of background, principles of statutory construction must be employed. The primary goal of statutory interpretation is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The statute's words must be given their plain and ordinary meaning without resort to a forced or subtle construction which would work to limit or to expand the operation of the statute. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). The plain meaning of a statute cannot be contravened. State v. Leopard, 349 S.C. 467, 563 S.E.2d 342 (2002).

The establishment of county and municipal funds for the purpose of crime victims services is authorized by Section 14-1-211 of the Code of Laws.¹ S.C. Code Ann. §14-1-211. The statute

¹ The county and municipal victims' services funds were established to carry out the victims services requirements imposed on political subdivisions of the state in both the South Carolina Code Section 16-3-1505, et seq., and the Victims' Bill of Rights in Article I, Section 24 of the South Carolina Constitution.

imposes a mandatory one hundred dollar surcharge for all convictions obtained in general sessions court and a twenty-five dollar surcharge for all convictions obtained in magistrate's or municipal court, with the exception of misdemeanor traffic offenses. S.C. Code Ann. §14-1-211(A)(1). Subsection 14-1-211(B) specifies how these surcharges are to be collected and limits how this revenue is to be used by the jurisdiction that collects it. It reads as follows in relevant part:

(B) The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use of all activities related to the requirements contained in this provision. For the purpose of funds allocation and expenditure, these funds are a part of the general funds of the city or county. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. These funds must be used for, but are not limited to, salaries, equipment that includes computer equipment and internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. (emphasis added).

The plain language of the foregoing statute makes it clear that the General Assembly intended for these funds to be appropriated "exclusively" for the purpose of providing services for the victims of crime within the jurisdiction in which they were collected. The statute cross references Article 15 of Title 16, Chapter 3, which states that the legislative intent behind the victims' services requirements was, among other things, that "the State has a responsibility to provide support to a network of services for victims of a crime." S.C. Code Ann. §16-3-1505. Moreover, Section 16-3-1510(1) of the Code defines a "victim" as:

"Victim" means any individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense, as defined in this section. "Victim" also includes any individual's spouse, parent, child, or the lawful representative of a victim who is:

- (a) deceased;
- (b) a minor;
- (c) incompetent; or

The Honorable Thad Viers
Page 3
July 10, 2003

(d) physically or psychologically incapacitated.

It is well recognized that when a statute designates that funds be used for a specified purpose, officials must spend these monies as the General Assembly directs. As our Supreme Court stated in Sumter County v. Hurst, 189 S.C. 316, 319, 1 S.E.2d 242 91939) "when a public officer receives money for the public use, he is a trustee to receive such monies and to pay them to the public official or function for whom or which they were intended."

Based on the foregoing authorities, we advise that the Victims' Advocate Fund of the City of Myrtle Beach, which exists under the authority of Section 14-1-211 of the Code, may be used only for the purpose of funding municipal entities which provide services exclusively to the victims of crime as defined in Section 16-3-1510(1). Accordingly, the use of the Victim's Advocate Fund for the purpose of funding any organization, including the American Red Cross, which provides services to non-crime victims would appear to be unauthorized pursuant to the plain language of the statute.

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General