

1975 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4130, 1975 WL 22426

Office of the Attorney General

State of South Carolina

Opinion No. 4130

September 23, 1975

*1 The 1974 Amendment to Sections 55–8.1 and 55–8.2 authorizing good conduct credits for county prisoners is curative or remedial legislation and applies to all prisoners confined on the effective date of the Act.

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QUESTION PRESENTED

Does the 1974 Amendment to Sections 55–8.1 and 55–8.2, found in Act #1114, Acts and Joint Resolutions of the General Assembly of the State of South Carolina 1974, page 2366, apply to all prisoners presently confined in the custody of the Board of Corrections.

STATUTES, CASES, ETC. INVOLVED

82 C.J.S. Statutes, Sections 414, 415, 430.

Southerland on Statutory Construction, Vol 2, Sections 41.02, 41.04, 41.11.

1960–61, Ops. Atty. Gen., 316.

1971–72, Ops. Atty. Gen., 278.

[Howard v. Allen](#), 368 F.Supp. 310.

Act #1114, Acts and Joint Resolutions of the General Assembly 1974, p.2366.

Sections 55–8.1, 55–8.2, Code of Laws of South Carolina, 1962 (1974 Cum.Supp.)

DISCUSSION OF THE ISSUES

Prior to the 1974 Amendment, this Office had issued an Opinion to the effect that the benefits of these statutes were not available to prisoners confined in the custody of county authorities in county prisons. 1971–72 Ops. Atty. Gen. #3407, p. 278. There was some dispute concerning that Opinion and there was some question as to its constitutional implications. The legislature by the 1974 Amendment specifically remedies the situation by making those statutes applicable to prisoners in the custody of county authorities. Although retroactive application of statutes is not favored, the authorities generally hold that exceptions are made in the case of remedial statutes. Retrospective operation is more readily ascribed to legislation that is curative. Curative acts are statutes which cure defects in prior laws and are generally made necessary

by inadvertence or error in the original enactment. Because of the beneficial policy served, these curative acts are generally held to be entitled to liberal construction.

In the present case the prisoner involved was confined for approximately sixteen (16) months in the Charleston County Jail before his transfer to the Department of Corrections. While confined in Charleston County, he was assigned duties which required work for seven (7) days a week. This would amount to approximately sixty-five (65) days good conduct credit for the sixty-five (65) weeks of confinement. Pursuant to Section 55-8.1, he would be entitled to one (1) day of credit for each week of such employment irrespective of the number of jobs held.

Section 55-8.2 became effective July 1, 1974. This statute provides that the Director may award an additional thirty (30) days of good conduct credit for each six (6) month period served. The statute also goes into certain administrative directions not relevant here. Prior to the 1974 Amendment, this thirty (30) day credit was available only to prisoners in the custody of the Board of Corrections.

CONCLUSION

*2 In my opinion the benefit of both these statutes should be available to all prisoners presently confined. The usual bases in support of the salutary principle opposed to retrospective construction are not present. No vested rights are being deprived or interfered with. Judgments entered before or after passage are being enforced uniformly as to all classes. The 1974 Amendment was curative or remedial legislation and should be applied to all prisoners presently incarcerated, in fairness to those prisoners and in application of the general principles of law governing construction of curative or remedial legislation.

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