CHAPTER 5

Offenses Against Civil Rights

**SECTION 16‑5‑10.** Conspiracy against civil rights.

 It is unlawful for two or more persons to band or conspire together or go in disguise upon the public highway or upon the premises of another with the intent to injure, oppress, or violate the person or property of a citizen because of his political opinion or his expression or exercise of the same or attempt by any means, measures, or acts to hinder, prevent, or obstruct a citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State.

 A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both. A person convicted under this section is ineligible to hold, and disabled from holding, any office of honor, trust, or profit in this State.

HISTORY: 1962 Code Section 16‑101; 1952 Code Section 16‑101; 1942 Code Section 1380; 1932 Code Section 1380; Cr. C. ‘22 Section 310; Cr. C. ‘12 Section 320; Cr. C. ‘02 Section 233; G. S. 2567; R. S. 198; 1871 (14) 560; 1960 (51) 1602; 1993 Act No. 184, Section 22.

CROSS REFERENCES

Abusing or threatening voters, see Section 7‑25‑80.

Antidiscrimination provisions relating to projects by South Carolina Jobs—Economic Development Authority, see Section 41‑43‑150.

Crime of conspiracy, generally, see Section 16‑17‑410.

Library References

Conspiracy 29.5.

Westlaw Topic No. 91.

NOTES OF DECISIONS

In general 1

1. In general

Section does not abrogate law of conspiracy. The offense created by this section [Code 1962 Section 16‑101] is purely a statutory one intended to protect citizens in their civil and political rights, does not abrogate the law of conspiracy, and has no reference whatever to conspiracy to commit offenses punishable at common law. State v Ameker (1906) 73 SC 330, 53 SE 484. State v McAdams (1932) 167 SC 405, 166 SE 405.

County administrator, whose at‑will employment as a public official was terminated by the county council, could not maintain an action against a newspaper and developer, who she claimed conspired to have her fired, as newspaper and developer were members of the public, and thus, were not third‑party interlopers. Angus v. Burroughs & Chapin Co. (S.C. 2006) 368 S.C. 167, 628 S.E.2d 261. Conspiracy 8

**SECTION 16‑5‑20.** Punishment for commission of additional crimes.

 If in violating any of the provisions of Sections 16‑5‑10 or 16‑5‑50 any other crime, misdemeanor or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor and felony by the existing laws of this State.

HISTORY: 1962 Code Section 16‑102; 1952 Code Section 16‑102; 1942 Code Section 1381; 1932 Code Section 1381; Cr. C. ‘22 Section 311; Cr. C. ‘12 Section 321; Cr. C. ‘02 Section 234; G. S. 2568; R. S. 199; 1871 (14) 560.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Library References

Conspiracy 51.

Sentencing and Punishment 500.

Westlaw Topic Nos. 91, 350H.

C.J.S. Conspiracy Sections 228 to 235.

C.J.S. Criminal Law Sections 2087 to 2091, 2093, 2095.

**SECTION 16‑5‑30.** Duty and liability of officers.

 Any constable, sheriff or magistrate, upon receipt of notice from any person that he has knowledge of an intention or attempt to destroy his property or to collect a mob for that purpose, shall take all legal means necessary for the protection of such property as is attacked or threatened to be attacked, and if such constable, sheriff or magistrate, upon receipt of such notice or upon knowledge of such intention or attempt to destroy such property in any wise received, shall neglect or refuse to perform his duty in the premises, he shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office and, on conviction thereof, shall forfeit his commission.

HISTORY: 1962 Code Section 16‑103; 1952 Code Section 16‑103; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. ‘22 Section 316; Cr. C. ‘12 Section 326; Cr. C. ‘02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

CROSS REFERENCES

Public disorderly conduct, see Section 16‑17‑530.

Library References

Municipal Corporations 185(1), 189(1), 190.

Sheriffs and Constables 6, 13, 86, 153.

Westlaw Topic Nos. 268, 353.

C.J.S. Municipal Corporations Sections 620 to 622, 640 to 644, 646 to 647, 655, 657 to 658, 660 to 667, 697.

C.J.S. Sheriffs and Constables Sections 10 to 12, 14 to 18, 27 to 29, 63 to 76, 494 to 498.

**SECTION 16‑5‑40.** Duty of officers to execute warrants.

 All sheriffs, constables, and other officers specially empowered shall obey and execute all warrants and other processes issued under the provisions of Sections 16‑5‑10, 16‑5‑20, or 16‑5‑50 and directed to them. If a sheriff, constable, or other officer specially empowered refuses to receive a warrant or other process when tendered to him or neglects or refuses to execute the same, he is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars or imprisoned not more than three years. Fines collected are for use of citizens deprived of the rights secured by the provisions of this chapter.

 Warrants and other processes run with and are executed by officers anywhere within the circuit or county in which they are issued.

HISTORY: 1962 Code Section 16‑104; 1952 Code Section 16‑104; 1942 Code Section 1382; 1932 Code Section 1382; Cr. C. ‘22 Section 312; Cr. C. ‘12 Section 322; Cr. C. ‘02 Section 235; G. S. 2569; R. S. 200; 1871 (14) 560; 1993 Act No. 184, Section 163.

Library References

Municipal Corporations 189(1), 190.

Sheriffs and Constables 86, 153.

Westlaw Topic Nos. 268, 353.

C.J.S. Municipal Corporations Sections 620 to 622, 640 to 644, 646, 655, 657, 660.

C.J.S. Sheriffs and Constables Sections 63 to 76, 494 to 498.

**SECTION 16‑5‑50.** Penalty for hindering officers or rescuing prisoners.

 Any person who shall (a) hinder, prevent, or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet, or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not more than three thousand dollars or imprisonment for not more than three years, or both, at the discretion of the court having jurisdiction.

HISTORY: 1962 Code Section 16‑105; 1952 Code Section 16‑105; 1942 Code Section 1383; 1932 Code Section 1383; Cr. C. ‘22 Section 313; Cr. C. ‘12 Section 323; Cr. C. ‘02 Section 236; G. S. 2570; R. S. 201; 1871 (14) 561; 2010 Act No. 273, Section 19, eff June 2, 2010.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Harboring or employing escaped convicts, see Section 24‑13‑420.

Library References

Escape 5, 13.

Obstructing Justice 117, 178.

Westlaw Topic Nos. 151, 282.

C.J.S. Escape and Related Offenses; Rescue Sections 24 to 28, 30, 32, 51.

C.J.S. Obstructing Justice or Governmental Administration Sections 11 to 19, 22 to 34, 36 to 66, 73 to 74, 80, 85 to 89.

RESEARCH REFERENCES

ALR Library

66 ALR 5th 397 , What Constitutes Obstructing or Resisting Officer, in Absence of Actual Force.

Attorney General’s Opinions

Officer may serve warrants on college campuses provided he has jurisdiction within county. There is no legal requirement that courtesy measures be adhered to. 1984 Op.Atty.Gen., No 84‑3, p 18 (1984 WL 159812).

The common law crime of obstruction of justice would generally be applicable in South Carolina to a person who interferes with a police officer duly executing a “detention order” for purpose of mental examination of the Probate Court issued pursuant to Code 1962 Section 32‑957 [Code 1976 Section 44‑17‑430], as amended. 1974‑75 Op.Atty.Gen., No 4085, p 163 (1975 WL 22381).

NOTES OF DECISIONS

In general 1

1. In general

Statutory provision governing penalty for hindering officers or rescuing prisoners applies only to offenses against civil rights. State v. Alls (S.C. 1998) 330 S.C. 528, 500 S.E.2d 781. Obstructing Justice 118

Statutory provision governing penalty for hindering officers or rescuing prisoners in connection with offenses against civil rights did not provide basis to prosecute defendant who allowed her boyfriend to hide in closet of her apartment in attempt to avoid his arrest for failure to pay child support. State v. Alls (S.C. 1998) 330 S.C. 528, 500 S.E.2d 781. Obstructing Justice 126(5)

A necessary element of the crime of violating Section 16‑5‑50 is that the arresting officer be charged with the execution of a warrant or other process at the time of the alleged interference; thus, in a prosecution under that section, the trial court erred in denying defendant’s motion for a directed verdict, where the State conceded that no warrant had been issued and there was no evidence that the officer was charged with the execution of any other process. State v. Kirven (S.C. 1983) 279 S.C. 541, 309 S.E.2d 749.

A defendant was properly convicted for violation of the statute where, during the course of the arrest of his brother, the defendant cursed the arresting officer, called him names, and threatened to assault him. State v. Etherage (S.C. 1982) 277 S.C. 523, 290 S.E.2d 413.

A warrant of arrest charging a violation of this section [Code 1962 Section 16‑105] can be legally served on Sunday. State v. Poinsett (S.C. 1967) 250 S.C. 293, 157 S.E.2d 570.

**SECTION 16‑5‑60.** Suits against county for damages to person or property resulting from violation of person’s civil rights.

 Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office.

HISTORY: 1962 Code Section 16‑106; 1952 Code Section 16‑106; 1942 Code Section 1384; 1932 Code Section 1384; Cr. C. ‘22 Section 314; Cr. C. ‘12 Section 324; Cr. C. ‘02 Section 237; G. S. 2571; R. S. 202; 1871 (14) 561.

CROSS REFERENCES

Claims against county, see Section 4‑13‑10 et seq.

Library References

Civil Rights 1718.

Counties 210.

Westlaw Topic Nos. 78, 104.

C.J.S. Civil Rights Sections 751 to 752, 754.

C.J.S. Counties Sections 412 to 413.

NOTES OF DECISIONS

In general 1

1. In general

This section [Code 1962 Section 16‑106] does not render county liable for injuries inflicted by mob, when not inflicted because of exercise of political rights. Brazzill v. Lancaster County (S.C. 1925) 132 S.C. 347, 128 S.E. 728. Counties 148

**SECTION 16‑5‑70.** Indemnity for property destroyed by mob or riot.

 When any dwelling house, building or other property, real or personal, shall be destroyed in consequence of any mob or riot it shall be lawful for any person owning or interested in such property to bring a suit against the county in which such property was situated and being for the recovery of such damages as he may have sustained by reason of the destruction thereof. The amount which shall be recovered in such action shall be paid in the manner provided by Section 16‑5‑60.

HISTORY: 1962 Code Section 16‑107; 1952 Code Section 16‑107; 1942 Code Section 1385; 1932 Code Section 1385; Cr. C. ‘22 Section 315; Cr. C. ‘12 Section 325; Cr. C. ‘02 Section 238; G. S. 2572; R. S. 203; 1871 (14) 561.

CROSS REFERENCES

Claims against counties, see Section 4‑13‑10 et seq.

Library References

Counties 148.

Riot 9.

Westlaw Topic Nos. 104, 341.

C.J.S. Counties Sections 287 to 290.

C.J.S. Riot; Insurrection Sections 30 to 35.

NOTES OF DECISIONS

In general 1

1. In general

This section [Code 1962 Section 16‑107] is Section 9 of the act of 1871 (14 St at Large 559), and must be construed as a part of said act and limited to the purposes thereof disclosed by the preamble. Warr v. Darlington County (S.C. 1936) 181 S.C. 254, 186 S.E. 920.

If the people of the State had designed to extend the remedy against the county for damages suffered by a citizen from acts of violence, they would have extended the constitutional provisions to embrace such remedy, but no such remedy is given by the Constitution. Warr v. Darlington County (S.C. 1936) 181 S.C. 254, 186 S.E. 920.

In an action to recover damages under this section [Code 1962 Section 16‑107] for the destruction of a crop of tobacco by a mob of disorderly and riotous persons, it was held that this section [code 1962 Section 16‑107] could not be construed to contemplate or to protect against such acts and injuries complained of. Warr v. Darlington County (S.C. 1936) 181 S.C. 254, 186 S.E. 920. Counties 148

**SECTION 16‑5‑80.** Damages not recoverable from county when property damage results from plaintiff’s illegal or negligent conduct.

 No person shall be entitled to the recovery of such damages if it shall appear that the destruction of his property was caused by his illegal conduct, nor unless it shall appear that he, upon knowledge had of the intention or attempt to destroy his property or to collect a mob for that purpose and sufficient time intervening, gave notice thereof to a constable, sheriff or magistrate of the county in which such property was situated and being.

HISTORY: 1962 Code Section 16‑108; 1952 Code Section 16‑108; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. ‘22 Section 316; Cr. C. ‘12 Section 326; Cr. C. ‘02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

CROSS REFERENCES

Claims against counties, see Section 4‑13‑10 et seq.

Library References

Counties 148.

Riot 9.

Westlaw Topic Nos. 104, 341.

C.J.S. Counties Sections 287 to 290.

C.J.S. Riot; Insurrection Sections 30 to 35.

RESEARCH REFERENCES

Encyclopedias

Am. Jur. 2d Mobs and Riots Section 64, Conduct of Injured Person.

Am. Jur. 2d Mobs and Riots Section 66, Notice Of, or Presentment of Claim For, Injury or Damage.

**SECTION 16‑5‑90.** Preservation of property owner’s right of action against participants in mob or riot resulting in damage to property.

 Nothing in this chapter shall be construed to prevent the person whose property is so injured or destroyed from having and maintaining his action against every person engaged or participating in such mob or riot to recover full damages for any injury sustained; provided, however, that no damages shall be recovered by such person against any of such rioters for the same injury for which compensation shall be made by the county.

HISTORY: 1962 Code Section 16‑109; 1952 Code Section 16‑109; 1942 Code Section 1387; 1932 Code Section 1387; Cr. C. ‘22 Section 317; Cr. C. ‘12 Section 327; Cr. C. ‘02 Section 240; G. S. 2574; R. S. 205; 1871 (14) 562.

CROSS REFERENCES

Claims against counties, see Section 4‑13‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

Am. Jur. 2d Mobs and Riots Section 43, Damages.

**SECTION 16‑5‑100.** Jurisdiction of circuit courts.

 The circuit courts of this State within their respective circuits in the counties of which the circuits are respectively composed shall have cognizance of all actions arising under the provisions of Sections 16‑5‑30, 16‑5‑70 and 16‑5‑110.

HISTORY: 1962 Code Section 16‑110; 1952 Code Section 16‑110; 1942 Code Section 988; 1932 Code Section 988; Cr. P. ‘22 Section 79; Cr. C. ‘12 Section 330; Cr. C. ‘02 Section 243; G. S. 2577; R. S. 208; 1871 (14) 562.

CROSS REFERENCES

Constitutional provision regarding jurisdiction of circuit court, see SC Const. Art. V, Section 11.

Library References

Courts 153.

Westlaw Topic No. 106.

**SECTION 16‑5‑110.** County’s right of action against participants in mob or riot resulting in county’s liability for damages to property.

 The governing body of the county against which damages shall be recovered under the provisions of this chapter may bring suit in the name of the county against any and all persons engaged or in any manner participating in any such mob or riot and against any constable, sheriff, magistrate or other officer charged with the maintenance of the public peace who may be liable, by neglect of duty, to the provisions of this chapter for the recovery of all damages, costs and expenses incurred by the county and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

HISTORY: 1962 Code Section 16‑111; 1952 Code Section 16‑111; 1942 Code Section 1388; 1932 Code Section 1388; Cr. C. ‘22 Section 318; Cr. C. ‘12 Section 328; Cr. C. ‘02 Section 241; G. S. 2575; R. S. 206; 1871 (14) 562.

Library References

Counties 148, 210.

Westlaw Topic No. 104.

C.J.S. Counties Sections 287 to 290, 412 to 413.

**SECTION 16‑5‑120.** Penalty for engaging in riot when weapon not used.

 Any person, upon conviction of engaging in a riot, rout or affray when no weapon was actually used and no wound inflicted shall be subject and liable for each offense to a fine not to exceed one hundred dollars or to imprisonment for a term not exceeding thirty days.

HISTORY: 1962 Code Section 16‑113; 1952 Code Section 16‑113; 1942 Code Section 1737; 1932 Code Section 1737; Cr. C. ‘22 Section 719; Cr. C. ‘12 Section 23; Cr. C. ‘02 Section 15; R. S. 14; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824.

Library References

Riot 8.

Westlaw Topic No. 341.

C.J.S. Riot; Insurrection Section 29.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Labor Relations Section 2:46, South Carolina.

Employment Coordinator Labor Relations Section 40:82, Riot.

Employment Coordinator Labor Relations Section 62:206, Criminal Offenses.

**SECTION 16‑5‑130.** Penalties for instigating, aiding or participating in riot.

 A person who is convicted of riot, or of participating in a riot, either by being personally present, or by instigating, promoting, or aiding the same, is guilty of a:

 (1) felony and must be imprisoned not more than five years or fined not more than one thousand dollars, or both, if the purpose of the assembly, or of the acts done or threatened or intended by the persons engaged, is to resist the enforcement of a statute of this State, or of the United States, or to obstruct any public officer of this State, or of the United States, in serving or executing any process or other mandate of a court of competent jurisdiction, or in the performance of any other duty; or if the offender carries, at the time of the riot, firearms, or any other dangerous weapon, or is disguised;

 (2) misdemeanor and must be imprisoned not more than two years or fined not more than five hundred dollars, or both, if the offender directs, advises, encourages, or solicits other persons, present or participating in the riot or assembly, to acts of force or violence;

 (3) misdemeanor and must be imprisoned not more than two years or fined not more than two hundred and fifty dollars, or both, in any case, not embraced within the foregoing subdivisions of this section.

 This section must not be construed to prevent the peaceable assembling of persons for lawful purposes of protest or petition.

HISTORY: 1962 Code Section 16‑113.1; 1968 (55) 2286; 1993 Act No. 184, Section 164.

Library References

Riot 8.

Westlaw Topic No. 341.

C.J.S. Riot; Insurrection Section 29.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Labor Relations Section 2:46, South Carolina.

Employment Coordinator Labor Relations Section 40:82, Riot.

Employment Coordinator Labor Relations Section 62:206, Criminal Offenses.

**SECTION 16‑5‑140.** Enforcement of chapter.

 Sheriffs, constables and other officers in the several circuits or counties vested with powers of arresting, imprisoning and bailing offenders against the laws of this State shall institute proceedings against every person who shall violate the provisions of this chapter and cause them to be arrested, imprisoned or bailed, as the case may require, for a trial before such court as shall have jurisdiction of the offense.

HISTORY: 1962 Code Section 16‑112; 1952 Code Section 16‑112; 1942 Code Section 1389; 1932 Code Section 1389; Cr. C. ‘22 Section 319; Cr. C. ‘12 Section 329; Cr. C. ‘02 Section 242; G. S. 2576; R. S. 207; 1871 (14) 566.

Library References

Municipal Corporations 189(1).

Sheriffs and Constables 86.

Westlaw Topic Nos. 268, 353.

C.J.S. Municipal Corporations Sections 620 to 622, 640 to 644, 646, 657, 660.

C.J.S. Sheriffs and Constables Sections 63 to 76.