CHAPTER 13

Deputy Sheriffs Generally

ARTICLE 1

General Provisions

**SECTION 23‑13‑10.** Appointment; approval by court; responsibility of sheriff for acts of deputy.

 The sheriff may appoint one or more deputies to be approved by the judge of the circuit court or any circuit judge presiding therein. Such appointment shall be evidenced by a certificate thereof, signed by the sheriff, and shall continue during his pleasure. The sheriff shall in all cases be answerable for neglect of duty or misconduct in office of any deputy.

HISTORY: 1962 Code Section 53‑71; 1952 Code Section 53‑71; 1942 Code Section 3486; 1932 Code Sections 3486, 3487; Civ. C. ‘22 Section 2032; Civ. C. ‘12 Section 1146; Civ. C. ‘02 Section 830; G. S. 652, 653; R. S. 713; 1870 (14) 332; 1880 (17) 4; 1927 (35) 44; 1936 (39) 1390; 1937 (40) 86.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 57, Home Rule Act.

Attorney General’s Opinions

Prosecutorial decisions based on perceived credibility problems do not constitute an improper interference with a sheriff or police chief’s supervisory duties. S.C. Op.Atty.Gen. (June 11, 2015) 2015 WL 3919079.

An individual’s service as a Colleton County School Board Trustee and as a Colleton County Sheriff’s Deputy would most likely violate the prohibition against dual office holding. S.C. Op.Atty.Gen. (May 20, 2014) 2014 WL 2591468.

Simultaneous serving as deputy sheriff and board member on county council of aging would be dual office holding. S.C. Op.Atty.Gen. (October 9, 2012) 2012 WL 5078730.

While a sheriff has absolute authority as to the hiring and discharge of a deputy sheriff, he must successfully complete the minimum basic training requirements established by such provision to have law enforcement authority. 1986 Op. Atty Gen, No. 86‑58, p 182.

Hiring and discharge of deputy sheriff are matters solely within prerogative of sheriff, and it is extremely doubtful whether action could be taken by county council to withdraw appropriation for particular deputy sheriff’s position so as to result in termination of particular deputy. 1985 Op. Atty Gen, No. 85‑82, p. 231.

Sheriff has absolute authority regarding employment and discharge of personnel within his department; such personnel are subject to “general personnel system policies and procedures” of county; county anti‑nepotism ordinance would be inapplicable to any employment decisions made by sheriff; applications for employment should be handled by county and not sheriff. 1985 Op. Atty Gen, No. 85‑7, p 40.

A Deputy Sheriff may not employ deputies under him even though the Sheriff is disabled. 1976‑77 Op. Atty Gen, No 77‑181, p 140.

A sheriff does not have authority to appoint special or honorary deputies unless specifically authorized by statute. 1976‑77 Op. Atty Gen, No. 77‑190, p 145.

A Deputy Sheriff holds office during the term and at the pleasure of the Sheriff who appointed him. 1974‑75 Op. Atty Gen, No. 4210, p 255.

A sheriff may be held personally liable in a civil action for any tortious act done by one of his deputies acting in line of duty. 1970‑71 Op. Atty Gen, No. 3214, p 196.

Under the South Carolina Constitution and statutes, a sheriff acts personally through his deputies and there is a legal presumption that a deputy assumes the identity of the sheriff when acting within the scope of his authority. 1970‑71 Op. Atty Gen, No. 3214, p 196.

A section of a county appropriations act authorizing employment of a deputy sheriff, with limited duties, was valid and in no way restricted the authority of the sheriff to appoint his general deputies. 1962‑63 Op. Atty Gen, No. 1557, p 127.

Under the common law the sheriff had sole authority to appoint his deputies, but since the appointment of deputies is regulated by statute, the method of appointment may be changed by the legislature. 1962‑63 Op. Atty Gen, No. 1557 p 127.

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1. In general

County is precluded from exercising any supervisory function or control over sheriff or his deputies, and is relieved of responsibilities for sheriff or deputies in performance of official duties, therefore, plaintiff must look to sheriff and not county government for redress of grievances in civil rights action by mother for fatal wounding of son by deputy sheriff. Allen v. Fidelity and Deposit Co. of Maryland (D.C.S.C. 1981) 515 F.Supp. 1185, affirmed 694 F.2d 716.

Applied in Middleton v. Pearman (D.C.S.C. 1969) 305 F.Supp. 1203.

Cited in Pelfrey v. Oconee County (S.C. 1945) 207 S.C. 433, 36 S.E.2d 297.

Stated in Willis v. Aiken County (S.C. 1943) 203 S.C. 96, 26 S.E.2d 313.

This section, when construed with what is now Section 14‑7‑820, renders a deputy sheriff ineligible for jury service. State v. Johnson (S.C. 1923) 123 S.C. 50, 115 S.E. 748.

A tax sale following an execution levied by a deputy who was not regularly appointed under this section and Section 23‑13‑20 is void. Barrineau v. Stevens (S.C. 1906) 75 S.C. 252, 55 S.E. 309.

2. Appointment and removal of deputies

Any illegality of defendant’s arrest, arising out of the alleged fact that the deputy sheriffs involved in the arrest were not duly qualified due to lack of compliance with formalities required by statute for their appointment, did not preclude defendant’s prosecution and conviction for the underlying offenses and, thus, did not entitle defendant to dismissal with prejudice of the criminal charges against him. State v. Griffin (S.C. 2016) 416 S.C. 266, 785 S.E.2d 786. Criminal Law 99

Deputies involved in arrestee’s capture could be considered de facto deputies, despite potential lack of compliance with formalities required by statute for appointment, arising from absence of proof of bond filing, such that any lack of compliance did not render the arrestee’s stop, seizure, detention, or arrest unlawful; deputies had all been employed with sheriff’s office for significant amount of time, ranging from eight to twenty‑eight years, all deputies indicated that they were bonded and had taken an oath for every sheriff for whom they had worked, and at time of arrest, deputies were performing duties consistent with their appointments and were identifiable to arrestee as deputy sheriffs who had authority. State v. Griffin (S.C.App. 2015) 413 S.C. 258, 776 S.E.2d 87, rehearing denied, certification granted, affirmed as modified 416 S.C. 266, 785 S.E.2d 786. Public Employment 232(1); Sheriffs And Constables 20

It is the appointment that confers the office of deputy sheriff; so long as the officer appointed continues to discharge the duties of his office, his official acts, as to third persons, are legal, despite his failure to give a bond or take an oath. State v. Griffin (S.C.App. 2015) 413 S.C. 258, 776 S.E.2d 87, rehearing denied, certification granted, affirmed as modified 416 S.C. 266, 785 S.E.2d 786. Public Employment 232(3); Sheriffs And Constables 20

A deputy serves at the sheriff’s pleasure. Botchie v. O’Dowd (S.C. 1993) 315 S.C. 126, 432 S.E.2d 458.

A sheriff may not compromise his statutory authority to discharge deputies at his discretion. Botchie v. O’Dowd (S.C. 1993) 315 S.C. 126, 432 S.E.2d 458. Public Employment 254; Sheriffs And Constables 21

Discharged deputy did not have a protectable property interest in continued employment with the sheriff’s department; to hold otherwise would eviscerate the sheriff’s ability to discharge deputies at his pleasure as described in Section 23‑13‑10. Botchie v. O’Dowd (S.C. 1993) 315 S.C. 126, 432 S.E.2d 458.

Although Section 23‑13‑10 grants a sheriff unreviewable employment and discharge authority over deputies in terms of a council‑implemented grievance procedure because deputies are not included within the term “employees” used in Section 4‑9‑30(7), it does not preclude judicial review of a claim of wrongful discharge based upon a violation of a deputy’s constitutional free speech rights. To hold otherwise would strip the courts of their power of review and thereby place a sheriff’s discharge decision beyond the reach of the very constitution which creates the sheriff’s office. Botchie v. O’Dowd (S.C. 1989) 299 S.C. 329, 384 S.E.2d 727.

A sheriff may remove a deputy without a hearing. State v. Goldsmith (S.C. 1914) 96 S.C. 484, 81 S.E. 147.

A sheriff is authorized by this section to summarily remove a deputy peace officer appointed by him, and such power is not affected by what is now Section 23‑13‑240, except in so far as it is made the duty of the sheriff to remove the deputy on the request of the executive officers of a corporation for such causes as are therein stated. State v. Goldsmith (S.C. 1914) 96 S.C. 484, 81 S.E. 147.

3. Who are ‘deputies’

A former lieutenant in the county sheriff’s department was not “personal staff” of an elected official, who would be excluded from protection under Title VII, where he did not report directly to the sheriff, he saw the sheriff only at monthly meetings of all supervisors, he was not a member of any command staff, he did not assist in any of the sheriff’s election efforts, he was initially hired as a deputy by the sheriff’s predecessor and was simply recommissioned by the sheriff, and his position was created and compensated under state law. Cromer v. Brown (C.A.4 (S.C.) 1996) 88 F.3d 1315. Civil Rights 1116(3)

This section is broad enough to include temporary law enforcement officers who acted under the sheriff in a subordinate capacity. Scott v. Vandiver (C.A.4 (S.C.) 1973) 476 F.2d 238.

4. Sheriff’s responsibility for acts of deputies

Every sheriff is liable for the acts of all his officers, and all persons acting under him in every subordinate capacity; and they on their parts, are bound to conduct themselves in the like manner as the sheriff himself ought to do, if he were present. Scott v. Vandiver (C.A.4 (S.C.) 1973) 476 F.2d 238.

Under South Carolina law, state prison corrections officer alleging that sheriff’s deputies planted contraband on his vehicle, leading to criminal charges, could not bring action against sheriff under statute making sheriff responsible for misconduct of his deputies; such statute was repealed by implication by South Carolina Tort Claims Act (SCTA). Robinson v. Metts, 1997, 86 F.Supp.2d 557, affirmed 188 F.3d 503, certiorari denied 120 S.Ct. 1166, 528 U.S. 1157, 145 L.Ed.2d 1076. Public Employment 916; Sheriffs And Constables 100

South Carolina statutes impose liability on sheriffs for illegal actions of their deputies. Brunson v. Hyatt (D.C.S.C. 1976) 409 F.Supp. 35.

A sheriff is responsible for the acts of his deputies performed in the course of his official business, and the sheriff’s bond will be responsible for any damages that may be suffered by any party as a result of negligence or improper acts in performance of such business. Trammell v. Fidelity & Cas. Co. of New York, 1942, 45 F.Supp. 366. Public Employment 1023; Sheriffs And Constables 157(3)

A deputy acts as his sheriff’s agent under South Carolina law. Heath v. Aiken County (S.C. 1988) 295 S.C. 416, 368 S.E.2d 904. Sheriffs And Constables 17

Deputy sheriff serves at sheriff’s pleasure. Rhodes v. Smith (S.C. 1979) 273 S.C. 13, 254 S.E.2d 49.

The liability of a sheriff or constable for the official acts of a deputy is not based upon the doctrine of respondeat superior, but on the fact that the deputy is his representative, for whose acts he is as liable as if they had been done by himself. Rutledge v. Small (S.C. 1939) 192 S.C. 254, 6 S.E.2d 260. Public Employment 972; Sheriffs And Constables 100

5. Extent of sheriff’s responsibility

Assault by a sheriff’s deputy in the performance of his duties is among the specific acts for which a sheriff is liable. Scott v. Vandiver (C.A.4 (S.C.) 1973) 476 F.2d 238. Public Employment 916; Sheriffs And Constables 100

Where deputy sheriffs admitted that a civil rights complaint stated a cause of action against them for acts growing out of their arrest and imprisonment of plaintiff, complaint also stated cause of action against the sheriff. Brunson v. Hyatt (D.C.S.C. 1976) 409 F.Supp. 35.

State statute providing for appointment and responsibility of sheriffs and their deputies and stating that “sheriff shall in all cases be answerable for neglect of duty or misconduct in office of any deputy” did not subject sheriff to vicarious liability under 42 USCA Section 1983 for conduct of deputies. Wyatt v. Fowler (S.C. 1997) 326 S.C. 97, 484 S.E.2d 590. Civil Rights 1358; Public Employment 972; Sheriffs And Constables 100

The sheriff’s liability extends to acts of his deputy for abuse of process, assaults committed while performing the duties of the office, failure to serve process, failure of deputy to pay over money collected by him, a wrongful levy on or taking of property under color of legal process, and other similar official acts. Rutledge v. Small (S.C. 1939) 192 S.C. 254, 6 S.E.2d 260.

The liability of a sheriff for the acts of his deputy extends to many matters, but all are confined to such acts which are performed in the sphere of office of the deputy, where the wrong committed by him is official and not solely the personal act of the deputy. Rutledge v. Small (S.C. 1939) 192 S.C. 254, 6 S.E.2d 260.

**SECTION 23‑13‑15.** Patrol of homeowner’s association territory; compensation from association funds.

 A sheriff is authorized to employ a deputy and pay his compensation from funds received from a residential homeowner’s association in the county and, in doing so, may assign that deputy to patrol the territory comprising the geographical area represented by the homeowner’s association. Nothing herein shall prevent the sheriff from assigning such deputy to other areas or to perform other duties, if, in the sheriff’s discretion, it is necessary to do so.

HISTORY: 1990 Act No. 561, Section 1.

**SECTION 23‑13‑20.** Bond and oath.

 Each deputy sheriff shall, before entering upon the discharge of his duty, enter into bond in the sum of one thousand dollars, with sufficient surety, to be approved by the sheriff of the county, conditioned for the faithful performance of his duties and for the payment to the county and to any person of all such damages as they or any of them may sustain by reason of his malfeasance in office or abuse of his discretion. He shall, in addition to the oath of office now prescribed by Section 26, of Article III, of the Constitution, take the following oath (or affirmation) to wit: “I further solemnly swear (or affirm) that during my term of office as county deputy, I will study the act prescribing my duties, will be alert and vigilant to enforce the criminal laws of the State and to detect and bring to punishment every violator of them, will conduct myself at all times with due consideration to all persons and will not be influenced in any matter on account of personal bias or prejudice. So help me, God.” The form of such bond shall be approved by the county attorney and, with the oaths, shall be filed with and kept by the clerk of court for the county.

 A blanket bond may be used in any county to fulfill the bond requirement of this section upon approval of the County Council and the County Attorney.

HISTORY: 1962 Code Section 53‑77; 1952 Code Section 53‑77; 1942 Code Sections 3488, 3494; 1932 Code Sections 3488, 3494; Civ. C. ‘22 Sections 2033, 2039; Civ. C. ‘12 Section 1147; Civ. C. ‘02 Section 831; G. S. 654; R. S. 714; 1870 (14) 332; 1880 (17) 4; 1912 (27) 865; 1981 Act No. 105, Section 1.

Library References

Sheriffs and Constables 19.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 37 to 38.

LAW REVIEW AND JOURNAL COMMENTARIES

Coverage for Cops: Should Injuries Sustained by Off‑Duty Sheriff’s Deputies in Their Patrol Cars Be Compensable Under the Worker’s Compensation Act? 55 SC Law Rev 695 (Spring 2004).

NOTES OF DECISIONS

In general 1

1. In general

Any illegality of defendant’s arrest, arising out of the alleged fact that the deputy sheriffs involved in the arrest were not duly qualified due to lack of compliance with formalities required by statute for their appointment, did not preclude defendant’s prosecution and conviction for the underlying offenses and, thus, did not entitle defendant to dismissal with prejudice of the criminal charges against him. State v. Griffin (S.C. 2016) 416 S.C. 266, 785 S.E.2d 786. Criminal Law 99

Deputies involved in arrestee’s capture could be considered de facto deputies, despite potential lack of compliance with formalities required by statute for appointment, arising from absence of proof of bond filing, such that any lack of compliance did not render the arrestee’s stop, seizure, detention, or arrest unlawful; deputies had all been employed with sheriff’s office for significant amount of time, ranging from eight to twenty‑eight years, all deputies indicated that they were bonded and had taken an oath for every sheriff for whom they had worked, and at time of arrest, deputies were performing duties consistent with their appointments and were identifiable to arrestee as deputy sheriffs who had authority. State v. Griffin (S.C.App. 2015) 413 S.C. 258, 776 S.E.2d 87, rehearing denied, certification granted, affirmed as modified 416 S.C. 266, 785 S.E.2d 786. Public Employment 232(1); Sheriffs And Constables 20

It is the appointment that confers the office of deputy sheriff; so long as the officer appointed continues to discharge the duties of his office, his official acts, as to third persons, are legal, despite his failure to give a bond or take an oath. State v. Griffin (S.C.App. 2015) 413 S.C. 258, 776 S.E.2d 87, rehearing denied, certification granted, affirmed as modified 416 S.C. 266, 785 S.E.2d 786. Public Employment 232(3); Sheriffs And Constables 20

Stated in Willis v. Aiken County (S.C. 1943) 203 S.C. 96, 26 S.E.2d 313.

**SECTION 23‑13‑30.** Monthly oath as prerequisite to salary warrant; uniforms and other equipment.

 Before issuing any warrant to any deputy for his salary, the supervisor shall require such deputy to take and subscribe an oath that he has fully and faithfully performed during the preceding month the duties required of him herein. The governing body of the county shall furnish to each such deputy two uniforms per year, to be prescribed and approved by such body. Such deputies shall provide themselves with deputies’ billies and such firearms as may be prescribed by the governing body of the county. They shall bear all expenses incident to their service.

HISTORY: 1962 Code Section 53‑80; 1952 Code Section 53‑80; 1942 Code Section 3491; 1932 Code Section 3491; Civ. C. ‘22 Section 2036; 1912 (27) 569, 865; 1961 (52) 497.

Library References

Sheriffs and Constables 19.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 37 to 38.

**SECTION 23‑13‑40.** Special deputies.

 The sheriff, without seeking the approval of the circuit judge, may appoint special deputies as the exigency of his business may require for the service of process in civil and criminal proceedings only. He shall be responsible for the conduct of such special deputies.

HISTORY: 1962 Code Section 53‑83; 1952 Code Section 53‑83; 1942 Code Section 3489; 1932 Code Section 3489; Civ. C. ‘22 Section 2034; Civ. C. ‘12 Section 1148; Civ. C. ‘02 Section 832; G. S. 652; R. S. 715; 1870 (14) 332; 1880 (17) 4.

Library References

Sheriffs and Constables 18.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 34 to 36.

Attorney General’s Opinions

Appointment of individuals as special deputies to serve civil process only, with no other law enforcement authority, would not appear to conflict with statutory provisions mandating training for law enforcement officers generally. 1991 Op. Atty Gen, No. 91‑10, p 41.

Any contract between county and private entity for service of civil process should comply with provisions of Section 4‑9‑30(5)(d) where necessary. 1991 Op. Atty Gen, No. 91‑10, p 41.

A sheriff does not have authority to appoint special or honorary deputies unless specifically authorized by statute. 1976‑77 Op. Atty Gen, No. 77‑190, p 145.

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1. In general

Cited in Barrineau v Stevens (1906) 75 SC 252, 55 SE 309. Trammell v Fidelity & Casualty Co. (1942, DC SC) 45 F Supp 366.

For additional related cases, see De Villers v Ford (1822) 13 SCL 144. Jentry v Hunt (1823) 13 SCL 410. May v Walters (1823) 13 SCL 470. Chiles v Holloway (1827) 15 SCL 164. Singletary v Carter (1830) 17 SCL 467. Barksdale v Posey (1835) 20 SCL 647. Ex parte Hanks (1840) 15 SC Eq 203. Klinck v Black (1880) 14 SC 241.

It is erroneous to say that a special deputy is an officer. Prince v. Dickson (S.C. 1893) 39 S.C. 477, 18 S.E. 33.

2. Special deputy as agent for sheriff

Where deputy sheriffs admitted that a civil rights complaint stated a cause of action against them for acts growing out of their arrest and imprisonment of plaintiff, complaint also stated cause of action against the sheriff. Brunson v. Hyatt (D.C.S.C. 1976) 409 F.Supp. 35.

South Carolina statutes impose liability on sheriffs for illegal actions of their deputies. Brunson v. Hyatt (D.C.S.C. 1976) 409 F.Supp. 35.

The authority of a special deputy is fixed by this section. He is given authority to serve civil and criminal process, and as special deputy for the statutory purpose, he acts as and for the sheriff, as his agent or alter ego. Thornton v. Sturgeon (S.C. 1955) 227 S.C. 294, 87 S.E.2d 821.

Special deputy is merely agent of sheriff. A special deputy is no more than an agent for the sheriff. Prince v. Dickson (S.C. 1893) 39 S.C. 477, 18 S.E. 33.

3. Service of process

Even a minor who is incapable of holding any office may act as a special deputy of the sheriff, and service made by him is legal and valid. McConnell v Kennedy (1888) 29 SC 180, 7 SE 76. State v Toland (1892) 36 SC 515, 15 SE 599, cited with approval in Prince v Dickson (1893) 39 SC 477, 18 SE 33.

This section and what is now Rule 4 of the South Carolina Rules of Civil Procedure pertaining to service of process must be read together. Since this section and and Rule 4 must be read together, it is clear that a special deputy has statutory authority to serve process on a defendant while he is in the State Penitentiary, and that personal service by such special deputy meets the requirements of Rule 4. Thornton v. Sturgeon (S.C. 1955) 227 S.C. 294, 87 S.E.2d 821.

**SECTION 23‑13‑50.** Authority to perform duties of office.

 When duly qualified a deputy sheriff may perform any and all of the duties appertaining to the office of his principal.

HISTORY: 1962 Code Section 53‑84; 1952 Code Section 53‑84; 1942 Code Section 3488; 1932 Code Section 3488; Civ. C. ‘22 Section 2033; Civ. C. ‘12 Section 1147; Civ. C. ‘02 Section 831; G. S. 654; R. S. 714; 1870 (14) 332; 1880 (17) 4.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

NOTES OF DECISIONS

In general 1

1. In general

A deputy acts as his sheriff’s agent under South Carolina law. Heath v. Aiken County (S.C. 1988) 295 S.C. 416, 368 S.E.2d 904. Sheriffs And Constables 17

Stated in Willis v. Aiken County (S.C. 1943) 203 S.C. 96, 26 S.E.2d 313.

**SECTION 23‑13‑60.** Power of arrest.

 The deputy sheriffs may for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, arrest without warrant and, in pursuit of the criminal or suspected criminal, enter houses or break and enter them, whether in their own county or in an adjoining county.

HISTORY: 1962 Code Section 53‑85; 1952 Code Section 53‑85; 1942 Code Section 3493; 1932 Code Section 3493; Civ. C. ‘22 Section 2038; Cr. C. ‘22 Section 328; 1912 (27) 865.

Library References

Arrest 63.2.

Westlaw Topic No. 35.

C.J.S. Arrest Section 15.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Criminal Law: Warrantless Arrest for Misdemeanor. 33 S.C. L. Rev. 69, August 1981.

Attorney General’s Opinions

A sheriff and his deputies have full law enforcement authority in any area of their county, including an area which is under the protection of a property licensed private security guard. 1988 Op. Atty Gen, No. 88‑90, p 249.

NOTES OF DECISIONS

In general 1

1. In general

In a prosecution for resisting arrest, the arrest was based on probable cause and the defendant’s resistance was therefore unlawful where the police, who arrived at the scene within minutes after receiving a call for help, found the defendant intoxicated and armed, with an expended shotgun shell on the ground nearby, a gathering crowd, and were told by defendant’s mother that he had a gun, was making threats, was acting funny, and had fired the gun into the air shortly before the police arrived. State v. Clark (S.C. 1982) 277 S.C. 333, 287 S.E.2d 143. Arrest 63.4(15)

**SECTION 23‑13‑60, and therefore Section 23‑5‑40, grants to highway patrolman authority to arrest defendant where patrolman arriving at scene of accident finds two cars, each damaged by other, and defendant, admitted driver of one vehicle, is highly intoxicated.** State v. Martin (S.C. 1980) 275 S.C. 141, 268 S.E.2d 105.

**SECTION 23‑13‑70.** Duty to patrol county.

 The deputy sheriffs shall patrol the entire county at least twice a week by sections assigned to each by the sheriff, remaining on duty at night when occasion or circumstances suggest the propriety thereof to prevent or detect crime or to make an arrest. They shall always be on duty for not less than ten hours a day, except when granted occasional indulgences or leaves of absence by the sheriff. They shall frequent railroad depots, stores and other public places where people congregate, disorder is probable, vagrants may be loafing or alcoholic liquors may be sold, bartered or given away and they shall as often as practicable ride by houses that are off the public highways and in lonely parts of the county, especially such as are without male protectors, and shall use every means to prevent or detect, arrest and prosecute for breaches of the peace, drunkenness, using obscene language, boisterous conduct or discharging of firearms on the public highways or at any public place or gathering, carrying weapons contrary to law, gambling, vagrancy, setting out fire, violation of the game and fish laws, cruelty to animals or children, violation of the child labor laws, lynching and for the violation of every law which is detrimental to the peace, good order and morals of the community.

HISTORY: 1962 Code Section 53‑86; 1952 Code Section 53‑86; 1942 Code Section 3492; 1932 Code Section 3492; Civ. C. ‘22 Section 2037; 1912 (27) 865.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

Attorney General’s Opinions

A sheriff and his deputies have full law enforcement authority in any area of their county, including an area which is under the protection of a property licensed private security guard. 1988 Op. Atty Gen, No. 88‑90, p 249.

While a sheriff, as chief law enforcement officer of a county, is statutorily obligated to patrol his county, which presumably would include a municipality within that county, a sheriff, as a county official, is not generally considered to be obligated to provide specific services within a municipality. However, a sheriff could offer a contract law enforcement services to a municipality. 1992 Op. Atty Gen No 92‑67.

NOTES OF DECISIONS

In general 1

1. In general

Statute reciting general duty of deputy sheriff to patrol county did not impose duty on sheriff’s department to protect domestic violence victim from her husband, for purposes of victim’s estate’s action against sheriff’s department, alleging that department’s negligence and/or gross negligence resulted in victim being shot and killed by husband. Arthurs ex rel. Estate of Munn v. Aiken County (S.C. 2001) 346 S.C. 97, 551 S.E.2d 579. Public Employment 916; Sheriffs And Constables 99

Statute reciting the general duty of deputy sheriff to patrol county did not impose duty on sheriff’s department to protect domestic violence victim from her husband, in action brought by personal representative of victim’s estate against sheriff’s department for negligence after victim was shot and killed by husband. Arthurs v. Aiken County (S.C.App. 1999) 338 S.C. 253, 525 S.E.2d 542, rehearing denied, certiorari granted, affirmed as modified 346 S.C. 97, 551 S.E.2d 579. Public Employment 972; Sheriffs And Constables 99

ARTICLE 3

Deputy Sheriffs for Industrial Communities

**SECTION 23‑13‑210.** Appointment and qualifications.

 Upon a written statement of the president, treasurer or other executive officer having the management of any industrial corporation located in any county of this State directed to the sheriff of such county, setting forth that in his opinion the interests of the industrial community and locality under his management require special police supervision, and that such community contains fifty or more inhabitants, the sheriff shall appoint as his deputy a discreet and suitable person satisfactory to the president, treasurer or other executive officer of the corporation requesting the appointment, who shall reside within the county in which is situate the property for whose protection he is appointed.

HISTORY: 1962 Code Section 53‑101; 1952 Code Section 53‑101; 1942 Code Section 3499; 1932 Code Section 3499; Civ. C. ‘22 Section 2042; Civ. C. ‘12 Section 1149; Civ. C. ‘02 Section 833; 1898 (22) 743; 1899 (23) 75; 1933 (38) 47; 1947 (45) 225.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

Attorney General’s Opinions

Inasmuch as off‑duty deputies of county sheriff’s department would be acting as deputy sheriffs and deriving their law enforcement authority from their commissions as deputy sheriffs while patrolling town pursuant to agreement between town and sheriff’s department, deputies should continue to wear deputy uniforms while patrolling town. It would be misleading for deputies to wear town uniforms while patrolling, since they are not town police officers. 1992 Op. Atty Gen 92‑07.

NOTES OF DECISIONS

In general 1

1. In general

Employee of textile plant who was appointed a deputy sheriff under this section was held to be subject to the provisions of the Fair Labor Standards Act. Holmes v. Industrial Cotton Mills Co., 1945, 64 F.Supp. 20.

Cited in Powell v. Board of Com’rs of Police Ins. & Annuity Fund of State (S.C. 1947) 210 S.C. 136, 41 S.E.2d 780, 1 A.L.R.2d 330.

The deputy sheriff for an industrial corporation is not eligible as a juror. State v. Johnson (S.C. 1923) 123 S.C. 50, 115 S.E. 748.

Quoted in State v. Goldsmith (S.C. 1914) 96 S.C. 484, 81 S.E. 147.

**SECTION 23‑13‑220.** Appointment of more than one deputy for larger communities.

 In communities or localities of one hundred or more inhabitants two or more such deputies shall be appointed by the sheriff of the county in which the community or locality is situated, if the president, treasurer or other executive officer of the industrial corporation located therein shall so request in writing, the number of such deputies to be maintained in any such community to be determined by the industrial corporation. And if an industrial corporation owns, operates or controls plants, branches or factories in separate communities or localities, each community or locality may be provided under the terms of this article with one or more such deputy sheriffs or constables upon the written request of the proper officer of such corporation.

HISTORY: 1962 Code Section 53‑102; 1952 Code Section 53‑102; 1942 Code Section 3499; 1932 Code Section 3499; Civ. C. ‘22 Section 2042; Civ. C. ‘12 Section 1149; Civ. C. ‘02 Section 833; 1898 (22) 743; 1899 (23) 75; 1933 (38) 47.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

**SECTION 23‑13‑230.** Oath; bond.

 Before entering upon the duties of his office, any such deputy shall take the oaths prescribed by the Constitution and statutes of this State. Any person so appointed a deputy sheriff under the provisions of this article shall execute the bond required of constables by Section 22‑9‑20 and shall be subject to the provisions of Section 22‑9‑160.

HISTORY: 1962 Code Section 53‑103; 1952 Code Section 53‑103; 1942 Code Sections 3499, 3501; 1932 Code Sections 3499, 3501; Civ. C. ‘22 Sections 2042, 2044; Civ. C. ‘12 Sections 1149, 1151; Civ. C. ‘02 Sections 833, 835; 1898 (22) 743; 1899 (23) 75; 1901 (23) 696; 1933 (38) 47.

Library References

Sheriffs and Constables 19.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 37 to 38.

NOTES OF DECISIONS

In general 1

1. In general

Applied in State v. Johnson (S.C. 1923) 123 S.C. 50, 115 S.E. 748.

Quoted in State v. Goldsmith (S.C. 1914) 96 S.C. 484, 81 S.E. 147.

**SECTION 23‑13‑240.** Term of office; removal.

 The term of office of any such deputy sheriff shall expire with the term of the sheriff appointing him. But any deputy appointed under this article shall be removed from office by the sheriff and his commission shall stand cancelled, if the president, treasurer or other executive officer of the corporation which requested his appointment shall file with the sheriff a written request that he be removed. And the sheriff at any time in the exercise of his discretion may revoke the commission of any such deputy for any cause whatsoever.

HISTORY: 1962 Code Section 53‑104; 1952 Code Section 53‑104; 1942 Code Section 3499; 1932 Code Section 3499; Civ. C. ‘22 Section 2042; Civ. C. ‘12 Section 1149; Civ. C. ‘02 Section 833; 1898 (22) 743; 1899 (23) 75; 1933 (38) 47.

Library References

Sheriffs and Constables 21.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 40 to 43.

**SECTION 23‑13‑250.** Salary.

 The salary of any such deputy shall be paid by the corporation at the instance of whose president, treasurer or other executive officer the appointment is made, the amount to be fixed by contract with the corporation, acting through its president, treasurer or other executive officer.

HISTORY: 1962 Code Section 53‑105; 1952 Code Section 53‑105; 1942 Code Section 3499; 1932 Code Section 3499; Civ. C. ‘22 Section 2042; Civ. C. ‘12 Section 1149; Civ. C. ‘02 Section 833; 1898 (22) 743; 1899 (23) 75; 1933 (38) 47.

Library References

Sheriffs and Constables 28 to 76.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 469 to 513.

**SECTION 23‑13‑260.** Jurisdiction.

 The jurisdiction of any such deputy sheriff, as an officer of the corporation at the request of which he is appointed, shall extend over the property controlled by the president, treasurer or other executive officer having the management of such corporation and in addition over all territory within a radius of one mile from the main building in which the industry of the corporation is operated.

HISTORY: 1962 Code Section 53‑107; 1952 Code Section 53‑107; 1942 Code Section 3499; 1932 Code Section 3499; Civ. C. ‘22 Section 2042; Civ. C. ‘12 Section 1149; Civ. C. ‘02 Section 833; 1898 (22) 743; 1899 (23) 75; 1933 (38) 47.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

**SECTION 23‑13‑270.** Situations in which jurisdiction may extend to other communities.

 When any industrial corporation controls and operates more than one industrial plant in any county in this State or when more than one industrial plant in the same county is controlled and operated by allied or affiliated corporations or corporations which are under the same general management or are under the same general stock ownership and the sheriff appoints a deputy sheriff under the terms of this article for any industrial community and locality in any such chain or series, the sheriff may give any such deputy sheriff additional jurisdiction under the terms of this article over any or all other communities or localities of such chain or series, but such additional jurisdiction shall not become effective until the sheriff shall have made such appointment in writing naming all of the communities and localities in which such appointee is given jurisdiction.

HISTORY: 1962 Code Section 53‑108; 1952 Code Section 53‑108; 1943 (43) 295.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

**SECTION 23‑13‑280.** Rights, powers and duties of deputies.

 Any such deputy sheriff:

 (1) Shall have, do and exercise all the rights, duties and powers prescribed by law for constables or magistrates and such powers as are usually exercised by marshals and policemen of towns and cities;

 (2) Shall act as a conservator of the peace;

 (3) Shall take into custody and carry before the nearest magistrate any person who may, in his view, engage in riotous conduct or violation of the peace, refusing upon his command to desist therefrom;

 (4) Shall arrest any person who may, in his view, commit any felony or misdemeanor and carry him before a court of competent jurisdiction; and

 (5) Shall execute any and all criminal process from magistrates’ courts.

HISTORY: 1962 Code Section 53‑111; 1952 Code Section 53‑111; 1942 Code Section 3500; 1932 Code Section 3500; Civ. C. ‘22 Section 2043; Cr. C. ‘22 Section 329; Civ. C. ‘12 Section 1150; Civ. C. ‘02 Section 834; 1898 (22) 793; 1899 (23) 75.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

NOTES OF DECISIONS

In general 1

1. In general

Applied in State v. Johnson (S.C. 1923) 123 S.C. 50, 115 S.E. 748.

**SECTION 23‑13‑290.** Responsibility for malfeasance of deputies.

 Neither the sheriff of the county nor the industrial corporation shall be responsible for the malfeasance, nonfeasance or misfeasance of any such officer, but he and his sureties shall be answerable therefor on his official bond.

HISTORY: 1962 Code Section 53‑112; 1952 Code Section 53‑112; 1942 Code Section 3502; 1932 Code Section 3502; Civ. C. ‘22 Section 2045; Civ. C. ‘12 Section 1152; 1904 (24) 424.

Library References

Sheriffs and Constables 100.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 114 to 119.

**SECTION 23‑13‑300.** Article shall be applicable notwithstanding that community is composed of temporary residents.

 The provisions of this article shall apply to any such industrial communities as are comprised of fifty persons or more, whether such persons are permanent or temporary inhabitants thereof.

HISTORY: 1962 Code Section 53‑113; 1952 Code Section 53‑113; 1942 Code Section 3503; 1932 Code Section 3503; Civ. C. ‘22 Section 2046; Civ. C. ‘12 Section 1153; 1904 (24) 424.

ARTICLE 5

Deputy Sheriffs for Fairs, Circuses and Meetings

**SECTION 23‑13‑410.** Appointment and qualifications.

 Upon a written statement of the president, treasurer or other executive officer having the management of any fair association, amusement company, circus, political meeting, camp meeting or other such concern located or to be located in any county in this State directed to the sheriff of any such county, setting forth that in his opinion the interests of the association, amusement company, circus, political meeting, camp meeting or other such concern under his management and the public peace require special police supervision, the sheriff shall appoint a discreet and suitable person or persons as his deputy or deputies, whose term of office shall continue during the public exhibition of such association, amusement company, circus, political meeting, camp meeting or other such concern, unless sooner by him removed. The salary of any such deputy shall be paid by the concern requesting such appointment.

 Nothing herein contained shall interfere with the right and duty of a sheriff, upon his own motion, to appoint such a deputy or deputies as may seem advisable.

HISTORY: 1962 Code Section 53‑121; 1952 Code Section 53‑121; 1942 Code Section 3504; 1932 Code Section 3504; Civ. C. ‘22 Section 2047; Civ. C. ‘12 Section 1154; 1908 (25) 1152; 1910 (26) 763.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

**SECTION 23‑13‑420.** Oath; bond.

 Before entering upon the duties of his office any such deputy shall take the oath prescribed by the Constitution and statutes of this State. He shall also execute the bond required of constables by Section 22‑9‑20 and shall be subject to the provisions of Section 22‑9‑160.

HISTORY: 1962 Code Section 53‑122; 1952 Code Section 53‑122; 1942 Code Sections 3504, 3506; 1932 Code Sections 3504, 3506; Civ. C. ‘22 Sections 2047, 2049; Civ. C. ‘12 Sections 1154, 1156; 1908 (25) 1152, 1153; 1910 (26) 763.

Library References

Sheriffs and Constables 19.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 37 to 38.

NOTES OF DECISIONS

In general 1

1. In general

Cited in State v. Goldsmith (S.C. 1914) 96 S.C. 484, 81 S.E. 147.

**SECTION 23‑13‑430.** Jurisdiction.

 The jurisdiction of such a deputy sheriff shall extend over the property controlled by such fair association, amusement company, circus, political meeting, camp meeting or other such concern.

HISTORY: 1962 Code Section 53‑123; 1952 Code Section 53‑123; 1942 Code Section 3504; 1932 Code Section 3504; Civ. C. ‘22 Section 2047; Civ. C. ‘12 Section 1154; 1908 (25) 1152; 1910 (26) 763.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

**SECTION 23‑13‑440.** Rights, powers and duties.

 Any such deputy sheriff:

 (1) Shall have and exercise all the rights, duties and powers prescribed by law for deputy sheriffs or constables and such powers as are usually exercised by marshals and policemen of towns and cities;

 (2) Shall act as a conservator of the peace;

 (3) Shall take into custody and carry before the nearest magistrate any person who may, in his view, engage in riotous conduct or violation of the peace, refusing upon his command to desist therefrom;

 (4) Shall arrest any person who may, in his view, commit any felony or misdemeanor and carry him before a court of competent jurisdiction; and

 (5) Shall execute any and all criminal processes from magistrates’ courts.

HISTORY: 1962 Code Section 53‑124; 1952 Code Section 53‑124; 1942 Code Section 3505; 1932 Code Section 3505; Civ. C. ‘22 Section 2048; Civ. C. ‘12 Section 1155; 1908 (25) 1153.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

ARTICLE 7

Deputy Sheriffs for Parks and Other Places of Amusement

**SECTION 23‑13‑510.** Appointment and qualifications.

 Upon a written statement of the president, treasurer or other executive officer having the management of any park or place of amusement located in any county of this State directed to the sheriff of such county, setting forth that in his opinion the interests of the patrons of such park or place of amusement require special police supervision, the sheriff shall appoint as his deputy a discreet and suitable person, satisfactory to the president, treasurer or other executive officer of such park or other place of amusement requesting the appointment and whose salary shall be paid by the park or other place of amusement at the instance of whose president, treasurer or other executive officer the appointment is made, the amount to be fixed by contract with the company owning or operating such park or place of amusement, acting through its president, treasurer or other executive officer.

HISTORY: 1962 Code Section 53‑131; 1952 Code Section 53‑131; 1942 Code Section 3508; 1932 Code Section 3508; Civ. C. ‘22 Section 2051; Civ. C. ‘12 Section 1158; Civ. C. ‘02 Section 833; 1899 (23) 75; 1908 (25) 1152; 1910 (26) 764.

CROSS REFERENCES

Parks generally, see Title 51.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

Attorney General’s Opinions

The holding of the positions of city policeman and special deputy for a racetrack is violative of the constitutional prohibition against dual office holding. 1964‑65 Op. Atty Gen, No 1844, p 100.

**SECTION 23‑13‑520.** Oath.

 Before entering upon the duties of his office, any such deputy shall take the oath prescribed by the Constitution and statutes of this State.

HISTORY: 1962 Code Section 53‑132; 1952 Code Section 53‑132; 1942 Code Section 3508; 1932 Code Section 3508; Civ. C. ‘22 Section 2051; Civ. C. ‘12 Section 1158; Civ. C. ‘02 Section 833; 1899 (23) 75; 1908 (25) 1152; 1910 (26) 764.

Library References

Sheriffs and Constables 19.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 37 to 38.

**SECTION 23‑13‑530.** Term; removal.

 The term of office of any such deputy sheriff shall expire with the term of the sheriff, unless sooner by him removed. And any such deputy shall be removed by the sheriff and another deputy appointed by him satisfactory to the president, treasurer or other executive officer of the park or place of amusement, whenever the president, treasurer or other executive officer shall make a statement in writing to the sheriff of the county that the deputy is not discharging his duties to the satisfaction of the president, treasurer or other executive officer and requesting a change of appointment.

HISTORY: 1962 Code Section 53‑133; 1952 Code Section 53‑133; 1942 Code Section 3508; 1932 Code Section 3508; Civ. C. ‘22 Section 2051; Civ. C. ‘12 Section 1158; Civ. C. ‘02 Section 833; 1899 (23) 75; 1908 (25) 1152; 1910 (26) 764.

Library References

Sheriffs and Constables 16.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 32 to 46.

**SECTION 23‑13‑540.** Jurisdiction.

 The jurisdiction of any such deputy sheriff shall extend over the property controlled by the president, treasurer or other executive officer having the management of the park or other place of amusement and in addition over all territory within a radius of one mile from the center of such park or place of amusement.

HISTORY: 1962 Code Section 53‑134; 1952 Code Section 53‑134; 1942 Code Section 3508; 1932 Code Section 3508; Civ. C. ‘22 Section 2051; Civ. C. ‘12 Section 1158; Civ. C. ‘02 Section 833; 1899 (23) 75; 1908 (25) 1152; 1910 (26) 764.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.

**SECTION 23‑13‑550.** Rights, powers and duties.

 Any such deputy sheriff:

 (1) Shall have, do and exercise all the rights, duties and powers prescribed by law for constables or magistrates and such powers as are usually exercised by marshals and policemen of towns and cities;

 (2) Shall also act as a conservator of the peace;

 (3) Shall take into custody and carry before the nearest magistrate any person who may, in his view, engage in riotous conduct or violation of the peace, refusing upon his command to desist therefrom;

 (4) Shall arrest any person who may, in his view, commit any felony or misdemeanor and carry him before a court of competent jurisdiction; and

 (5) Shall execute any and all criminal process from magistrates’ courts.

HISTORY: 1962 Code Section 53‑135; 1952 Code Section 53‑135; 1942 Code Section 3509; 1932 Code Section 3509; Civ. C. ‘22 Section 2052; Cr. C. ‘22 Section 330; Cr. P. ‘22 Section 14; Civ. C. ‘12 Section 1159; Cr. C. ‘12 Section 15; 1908 (25) 1086, 1152, 1153.

Library References

Sheriffs and Constables 79.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 57 to 60.