



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 82- 166

Dennis W. Moore
Johnson County District Attorney
Johnson County Courthouse
P.O. Box 728, 6th Floor Tower
Olathe, Kansas 66061

Re: State Board, Commissions and Authorities -- Law
Enforcement Training Center -- Persons Subject
to Training Requirements

Synopsis: Non-salaried reserve police officers are not police officers or law enforcement officers for the purposes of Section 4 of 1982 Senate Bill No. 499 (L. 1982, ch. 322), which imposes training requirements on full-time and part-time police and law enforcement officers. Additionally, to be regarded as "full-time," a police officer or law enforcement officer must work at least 1,000 hours per year. Cited herein: K.S.A. 74-5602 (as amended by L. 1982, ch. 322, §2, and further amended by L. 1982, ch. 323, §1), L. 1982, ch. 322, §4.

* * *

Dear Mr. Moore:

You have requested our opinion regarding certain provisions of the Kansas Law Enforcement Training Act, as it was amended and supplemented by 1982 Senate Bill No. 499 (L. 1982, ch. 322). Specifically you inquire:

- 1) Must a non-salaried reserve officer fulfill the training requirements of the Act; and
- 2) If an officer works more than 1000 hours is he considered a "full-time" employee for the training purposes of this Act?

Particularly relevant to your inquiry is Section 4 of the 1982 enactment (L. 1982, ch. 322, §4), which provides as follows:

"No person shall receive a permanent appointment as a full-time police officer or law enforcement officer unless such officer has been awarded a certificate attesting to satisfactory completion of a course of not less than 320 hours of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524 on or before January 1, 1982. No person shall receive a permanent appointment as a part-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to the satisfactory completion of the basic course of 80 hours of accredited instruction in law enforcement at the training center or at a certified state or local law enforcement training school." (Emphasis added.)

For the purposes of the foregoing requirements, "police officer" and "law enforcement officer" are defined in subsection (e) of K.S.A. 74-5602 (as amended by L. 1982, ch. 322, §2, and further amended by L. 1982, ch. 323, §1). This definition states in pertinent part:

"'Police officer' or 'law enforcement officer' means a full-time or part-time salaried officer or employee of the state, a county or city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or any municipality thereof." (Emphasis added.)

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In considering the import of this definition, we have been guided by well-established rules of statutory construction. As noted in Johnson v. McArthur, 226 Kan. 128 (1979):

"The fundamental rule of statutory construction, to which all other rules are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statutes. When a statute is plain and unambiguous the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be." 226 Kan. at 135. See also Thomas County Taxpayers Ass'n v. Finney, 223 Kan. 434, 438-39 (1978).

In giving effect to the intent of the legislature, courts "must consider the language of the statute; its words are to be understood in their plain and ordinary sense." Lakeview Gardens, Inc. v. State, ex rel, Schneider, 221 Kan. 211, 214 (1976). Moreover, it is not the function of the courts to expand or broaden the plain letter of a statute. State v. One Bally Coney Island No. 21011 Gaming Table, 174 Kan. 757, Syl. ¶2 (1953).

In our judgment, the above-quoted provisions of K.S.A. 74-5602(e) (as amended) are plain and unambiguous in requiring that a "police officer" or "law enforcement officer" must be a "salaried officer or employee" of an appropriate governmental unit. Accordingly, the training requirements imposed on full-time and part-time police and law enforcement officers are applicable only to such salaried officers and employees. Thus, since the reserve officers you mentioned in your inquiry are unsalaried, we necessarily conclude that they are not subject to these training requirements.

Furthermore, the Kansas legislature has not passed any law regulating the training of reserve police officers. Therefore, it is our opinion that unsalaried reserve police officers are not required by state law to undergo any type of training. However, local law enforcement agencies are certainly free to adopt any training requirements they deem appropriate.

Resolution of your second inquiry also necessitates a consideration of pertinent definitions. Subsections (f) and (g) of K.S.A. 74-5602 (as amended) provide:

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"(f) 'Full-time' means employment requiring at least 1,000 hours of work per year.

"(g) 'Part-time' means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year." (Emphasis added.)

Applying the rules of statutory construction mentioned above, it is apparent that the legislature intended 1000 hours per year to be the absolute maximum for part-time officers and employees. Therefore, it is our opinion that any officer or employee who works more than 1000 hours in one year's time is to be considered "full-time" for the purposes of training under the Act. However, our conclusion is strictly limited to this Act and is not intended to imply full-time status for other employment purposes.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Mary B. Mudrick
Assistant Attorney General

RTS:JEF:MEM:may