



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 82-121

Maynard L. Brazeal  
Director  
Kansas Law Enforcement Training Center  
P.O. Box 647  
Hutchinson, Kansas 67501

Re: State Boards, Commissions and Authorities -- Law  
Enforcement Training Center -- Certification For  
Permanent Appointment As Part-Time Officer.

Synopsis: Section 4 of 1982 Senate Bill No. 499, which requires prescribed training for part-time police officers or law enforcement officers, must be applied prospectively. Thus, officers who received appointments as part-time police officers or law enforcement officers prior to the effective date of the act need not complete the required training in order to continue employment in that capacity. Cited herein: Section 4 of 1982 Senate Bill No. 499.

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Dear Mr. Brazeal:

You have requested our opinion regarding the application of various sections of Senate Bill No. 499 which was passed in the 1982 session of the Legislature and takes effect July 1, 1982. More specifically, you inquire whether Section 4 of S.B. 499 requires that all "part-time" police officers or law enforcement officers satisfactorily complete a basic course of 80 hours instruction regardless of whether such officers were employed as part-time officers prior to the effective date of the act.

Subsection (a) of Section 4 of S.B. 499 provides:

"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 supplied.)

Well-established rules of statutory construction provide that when the language of a statute is plain and unambiguous, the language as expressed must be given effect. 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. Thomas County Taxpayers Ass'n v. Finney, 223 Kan. 434, 573 P.2d 1073 (1978)." 226 Kan. at 135.

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.

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State v. One Bally Coney Island No. 21011 Gaming Table, 174 Kan. 757, Syl. para. 2 (1953).

The clear language of the foregoing statute provides that "[n]o person shall receive a permanent appointment as a part-time police officer or law enforcement officer" without having completed the required training. In that respect Senate Bill No. 499 addresses future appointments but is silent with respect to existing part-time appointments.

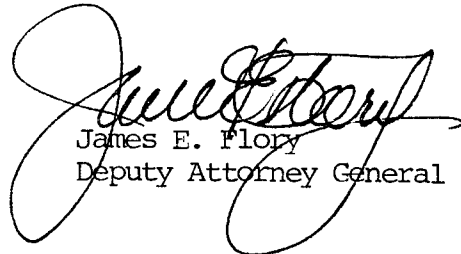
Absent a clear expression by the legislature that a statute is to operate retroactively, it has been stated on numerous occasions that the statute should be applied prospectively. Thorne v. City of Newton, 229 Kan. 375 (1981); Davis v. Hughes, 229 Kan. 91 (1981); State v. Hutchison, 228 Kan. 279 (1980). The foregoing principle is especially true when the legislation affects substantive rights or creates a new liability. Board of Greenwood County Commissioners v. Nadel, 228 Kan. 469 (1980); Nitchals v. Williams, 225 Kan. 285 (1979).

Based upon the foregoing rules of statutory construction, it is our opinion that 1982 Senate Bill No. 499, as it relates to training requirements of part-time police officers or law enforcement officers, must be applied prospectively from the effective date of the act. Therefore, officers who received an appointment as a part-time police officer or law enforcement officer prior to the effective date of the act are not required to complete the prescribed training in order to continue employment in that capacity.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



James E. Flory  
Deputy Attorney General

RTS:JEF:may