

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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October 28, 2010

Opinion No. 10-107

POST Certification Of Bailiffs and Court Officers

QUESTION

Must a bailiff or court officer be certified by the Peace Officer Standards and Training Commission (“POST”)?

OPINION

With the exception of court officers in Davidson County, a bailiff or court officer must be a deputy sheriff, must obtain POST certification within one year of employment, and, if newly assigned to the courts after July 1, 2008, must also complete 40 hours of basic training in courthouse security within twelve months of that assignment.

ANALYSIS

In Op. Tenn. Att’y Gen. 10-77 (copy attached), this office opined that the county sheriff is responsible for providing bailiffs or court officers for the county’s courts.¹ You have asked whether a bailiff or court officer must be certified by POST. Because all deputy sheriffs must be certified by POST,² your question raises by implication the issue of whether a sheriff may avoid such POST certification and other training requirements by assigning personnel who do not hold the title of deputy sheriff to serve as a bailiff or court officer.

Tenn. Code Ann. § 8-8-213 states that sheriffs are peace officers and have a duty to enforce laws and preserve order. Sheriffs are also under a duty to provide courtroom security,

¹ In Davidson County only, local judges are authorized to appoint their own court officers. Tenn. Code Ann. § 8-8-201(a)(2)(B)(i). This opinion therefore does not address the appointment, training, and certification of Davidson County court officers. Sheriffs in all other counties are also required to supply court officers to attend to the General Sessions Courts and Juvenile Courts. Tenn. Code Ann. § 16-15-715; Tenn. Code Ann. § 37-1-213.

² As discussed in Op. Tenn. Att’y Gen. 10-77, deputy sheriffs who are assigned to the courts must successfully complete POST-approved training in courtroom security, in addition to their basic training required to become a certified peace officer.

attend to the courts, and obey the lawful orders and directives of the courts. Tenn. Code Ann. § 8-8-201(a)(2)(A).³

Deputy sheriffs are required to be certified as peace officers within one year of employment. Tenn. Code Ann. §§ 38-8-102 to 38-8-122. The legislature has also imposed training requirements for deputy sheriffs who serve as bailiffs. Deputy sheriffs who are newly assigned to the courts after July 1, 2008, must also complete 40 hours of training in courthouse security and every year complete an additional 16 hours of POST-approved training in courthouse security. Tenn. Code Ann. § 5-7-108(a)(2) (Supp. 2009).

The primary objective of statutory construction is to ascertain and give effect to the intent of the legislature. *Auto Credit v. Wimmer*, 231 S.W.3d 896 (Tenn. 2007). Statutes that have a common purpose or are related to the same subject matter must be construed *in pari materia* to advance the common purpose or intent. *Wells v. Tenn. Bd. of Regents*, 231 S.W.3d 912 (Tenn. 2007). Statutes should not be construed in a manner that would result in an absurd outcome. *Dellinger v. State*, 279 S.W.3d 282, 291 (Tenn. 2009).

Reading Tenn. Code Ann. §§ 5-7-108(a)(2), 8-8-201(a)(2)(A), 16-15-715, 37-1-213, and 38-8-102 to 38-8-122 *in pari materia* indicates that the legislature intended to impose certification and training requirements upon the persons a sheriff assigns to serve as bailiffs and court officers. To construe such statutes as authorizing a sheriff to circumvent such express requirements by assigning persons who do not possess the title of deputy sheriff to serve as bailiffs or court officers would be contrary to that intent.⁴

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³ Sheriffs are also under a duty to provide bailiffs to serve the general sessions courts, Tenn. Code Ann. § 16-15-715, and deputies and special deputies to attend and dispense with the business of juvenile courts. Tenn. Code Ann. § 37-1-213.

⁴ For example, as noted above, Tenn. Code Ann. § 5-7-108(a)(2) requires that “deputy sheriffs newly assigned to courts pursuant to §§ 8-8-201(a)(2)(A), 16-15-715, and 37-1-213” must participate in regular training in “courthouse security.” If sheriffs could appoint persons under those statutes to serve as bailiff or court officer who do not hold the title of deputy sheriff, then such appointees would be exempt from this critical courtroom security training that the legislature has mandated.

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Requested by:

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