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State of Louisiana  
DEPARTMENT OF JUSTICE  
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August 28, 2015  
OPINION 15-0121

The Honorable Thomas Carmody  
State Representative, District 6  
5918 Fairfield Ave  
Shreveport, LA 71106

61      Laws-General  
107      SHERIFFS - Constables & Marshals

La. R.S. 13:2583.3

The Honorable Jim Morris  
State Representative, District 1  
P.O. Box 217  
Oil City, Louisiana 71061

Effective August 1, 2015, only one deputy constable is allowed to be appointed per constable of a justice of the peace court in Caddo Parish.

Dear Rep. Carmody and Rep. Morris:

You have requested an opinion of the Attorney General wherein you ask questions related to the interpretation of Act 93 of 2015 Regular Session of the Louisiana Legislature ("Act 93"). Your request has been assigned to me for reply. Specifically, you have asked about the effective date of Act 93 and whether deputy constables appointed prior to the effective date of Act 93 may continue to serve as deputy constables.

Act 93 amended and reenacted La. R.S. 13:2583.3, which pertains to the appointment of deputy constables in Caddo Parish. Under Act 93, La. R.S. 13:2583.3 was amended as follows:

A. Each duly elected constable of a justice of the peace court in Caddo Parish may appoint one or ~~more~~ deputy constables constable, if necessary, for whose acts the constable shall be responsible. Before entering upon his duties, each deputy shall take the oath required by the constitution and the laws of this state and meet the requirements of R.S. ~~40:2402 through 2406~~ R.S. 40:2405. A duplicate copy of the oath of office shall be filed with the office of the attorney general within seventy-two hours after being administered. Any deputy constable appointed pursuant to this Section shall not be entitled to any compensation from any local governing body or political subdivision, other than the constable's office, and shall not be entitled to any compensation from the state. Each constable may fix the compensation of his deputy ~~or deputies~~. He may pay from the fees generated by his office any compensation due to ~~a~~ the deputy, the premiums on bonds required by him of a deputy in charge of public funds, insurance premiums, and any expenses necessary for the

performance of duties required of a the deputy. He may issue monthly or twice per month, at his discretion, warrants or checks for the amounts due to a the deputy.

B. Each deputy constable authorized by this Section shall have the same qualifications and training as required by law for a constable of a justice of the peace court. A The deputy constable need not be a resident of the ward from which the constable is elected, but he must be a resident of Caddo Parish.

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Prior to the enactment of Act 93, each constable of a justice of the peace court in Caddo Parish had the authority to appoint one or more deputy constables, if necessary. Now, each constable of a justice of the peace court in Caddo Parish may only appoint one deputy constable.

Your first question asks when Act 93 became effective. We turn your attention to La. Const. art 3, § 19, which provides as follows:

All laws enacted during a regular session of the legislature shall take effect on August first of the calendar year in which the regular session is held and all laws enacted during an extraordinary session of the legislature shall take effect on the sixtieth day after final adjournment of the extraordinary session in which they were enacted. All laws shall be published prior thereto in the official journal of the state as provided by law. However, any bill may specify an earlier or later effective date.

Act 93 did not contain an effective date; therefore, by default, the provisions of Act 93 became effective August 1, 2015.

You also inquired as to whether the deputy constables in Caddo Parish appointed prior to the effective date of Act 93 are allowed to continue their appointments as deputy constables. In other words, if a constable in Caddo Parish appointed multiple deputy constables prior to August 1, 2015, you ask whether the multiple deputy constables are permitted to continue holding office despite the fact that the law now only permits the appointment of one deputy constable.

The starting point for the interpretation of any statute is "the language of the statute itself."<sup>1</sup> The basic tenets of statutory construction and interpretation which apply to the statute are found in the Louisiana Civil Code and Title 1 of the Louisiana Revised Statutes. Your attention is directed to the following articles of the Louisiana Civil Code and Louisiana Revised Statutes:

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<sup>1</sup> *Touchard v. Williams*, 617 So.2d 885, 888 (La.1993), superseded on other grounds by statute in *Dumas v. State ex rel. Dep't of Culture, Recreation & Tourism*, 02-0563 (La.10/15/02), 828 So.2d 530; *Theriot v. Midland Risk Ins. Co.*, 95-2895 (La.5/20/97), 694 So.2d 184, 186.

La. C.C. art. 9: When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.

La. C.C. art. 11: The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given their technical meaning when the law involves a technical matter.

La. C.C. art. 13: Laws on the same subject matter must be interpreted in reference to each other.

La. R.S. 1:3 Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning. The word "shall" is mandatory and the word "may" is permissive.

La. R.S. 24:177(C), provides, in part: "[t]he legislature is presumed to have enacted an article or statute in light of the preceding law involving the same subject matter and court decisions construing those articles or statutes, and where the new article or statute is worded differently from the preceding law, the legislature is presumed to have intended to change the law."

This office has reviewed the language of La. R.S. 13:2583.3 using the foregoing rules of statutory construction. The statute clearly and succinctly limits the number of deputy constables in Caddo Parish to one per constable, effective August 1, 2015. Had the legislature intended for the previously appointed deputy constables to be allowed to continue their appointments, it would have included a clause exempting individuals properly appointed as deputy constables under the old law. However, Act 93 did not contain a grandfather clause that would continue the multiple deputy constables in office, and we could find no law that would restrict the authority of the legislature to eliminate these appointive positions upon the effective date of the legislation.<sup>2</sup> Therefore, we are of the opinion that the previously appointed deputy constables in Caddo Parish are not grandfathered into their appointments, and beginning August 1, 2015, each constable of a justice of the peace court in Caddo Parish is only allowed to have one deputy constable.

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<sup>2</sup> A grandfather clause is "[a] provision that creates an exemption from the law's effect for something that existed before the law's effective date; specifically, a statutory or regulatory clause that exempts a class of persons or transactions because of circumstances existing before the new rule or regulation takes effect." Black's Law Dictionary (10<sup>th</sup> ed. 2014), grandfather clause.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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ATTORNEY GENERAL

BY: Erin C. Day  
Erin C. Day  
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