

OPINION NO. 79-004**Syllabus:**

R.C. 307.441(F) does not require a board of county commissioners to obtain liability insurance for all persons mentioned in R.C. 307.441(A) to (D) if it obtains liability insurance for other county officers, such as deputy sheriffs. However, a board of county commissioners may not refuse, pursuant to R.C. 307.441(F), to provide liability insurance for the persons mentioned in R.C. 307.441(A) to (D) if such insurance policies are reasonably available, once it obtains liability insurance for other county officers, such as deputy sheriffs.

To: John F. Holcomb, Butler County Pros. Atty., Hamilton, Ohio
By: William J. Brown, Attorney General, March 12, 1979

I have before me your request for my opinion which may be summarized as follows:

Does R.C. 307.441(F) require a county commission to obtain liability insurance for all persons mentioned in R.C. 307.441 if it obtains false arrest insurance for deputy sheriffs?

I had occasion to consider this issue in 1978 Op. Att'y Gen. No. 78-055, in which I concluded that "R.C. 307.441(E) requires a board of county commissioners to procure liability insurance for all county officials named in R.C. 307.441(A) to (D) if it purchases such insurance for any county official named therein." However, the General Assembly, by enacting 1978 Am. S.B. No. 423, amended R.C. 307.441(E). Therefore, it is necessary to analyze your question in light of this change.

As before, R.C. 307.441 permits a board of county commissioners to purchase liability insurance for the county recorder, clerk of the court of common pleas, and the deputies of such officers [R.C. 307.441(A)]; the county sheriff and his deputies [R.C. 307.441(B)]; the county prosecuting attorney and assistant prosecuting attorneys [R.C. 307.441(C)]; and the county coroner, engineer, auditor, each commissioner, the treasurer and the assistants of those officers [R.C. 307.441(D)]. Prior to the enactment of Am. S.B. 423, R.C. 307.441(E) provided as follows:

(E) If the board of county commissioners of any county procures a policy or policies of insurance insuring any county official against liability arising from the performance of his official duties as provided by divisions (A) to (D) of this section, it shall procure policies of insurance insuring all county officials as authorized in those divisions.

R.C. 307.441(E) was amended and relabeled as R.C. 307.441(F) by Am. S.B. No. 423. It now provides as follows:

(F) If the board of county commissioners of any county procures a policy or policies of insurance insuring any county official against liability arising from the performance of his official duties as provided by divisions (A) to (D) of this section, it shall not refuse to procure a policy or policies of insurance insuring any other county official as authorized in those divisions, if such policy or policies is reasonably available.
(Emphasis added)

By amending the phrase "all county officials" to "any other county official," the General Assembly intended that such liability insurance need not be purchased for all county officials listed in R.C. 307.441(A) to (D) if purchased for any one of those officials. Rather, if purchased for one

county official, it must be purchased only for such other officials listed in R.C. 307.441(A) to (D) who request it, if such policies are reasonably available. Therefore, I conclude that R.C. 307.441(F) does not require a board of county commissioners to obtain liability insurance for all persons mentioned in R.C. 307.441(A) to (D) if it obtains false arrest insurance coverage for deputy sheriffs. However, a board of county commissioners may not refuse, pursuant to R.C. 307.441(F), to provide liability insurance for persons mentioned in R.C. 307.441(A) to (D) if such insurance policies are reasonably available, once it obtains false arrest insurance coverage for deputy sheriffs.

Accordingly, it is my opinion, and you are so advised, that R.C. 307.441(F) does not require a board of county commissioners to obtain liability insurance for all persons mentioned in R.C. 307.441(A) to (D) if it obtains liability insurance for other county officers, such as deputy sheriffs. However, a board of county commissioners may not refuse, pursuant to R.C. 307.441(F), to provide liability insurance for the persons mentioned in R.C. 307.441(A) to (D) if such insurance policies are reasonably available, once it obtains liability insurance for other county officers, such as deputy sheriffs.