

# The State of South Carolina



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January 12, 1993

The Honorable W. R. Douglas  
Probate Judge of Cherokee County  
Post Office Box 22  
Gaffney, South Carolina 29340

Dear Judge Douglas:

You have advised that the Cherokee County Administrator is proposing to move the Probate Court from its present location in the county courthouse into a remodeled hospital, which is located approximately one mile from the courthouse. In this regard, you have sought an interpretation of S.C. Code Ann. § 4-1-80 (1976, as revised).

In pertinent part, § 4-1-80 provides:

The governing body of each county shall furnish the probate judge, ... office room, together with necessary furniture and stationery for the same, which shall be kept at the courthouse of their respective counties ... .

The duty of the county to erect and furnish a courthouse, to furnish the offices therein, and to assign or reassign office space has been discussed in Werts v. Feagle, 83 S.C. 128, 65 S.E. 226 (1909). The plain language of § 4-1-80 suggests that the probate court must be furnished office space and furnishings in the courthouse of the respective county. There are other considerations, however, which make such a conclusion not free from doubt.

REQUEST LETTER

Section 14-23-1010 provides that "[t]here is established in each of the counties of this State a probate court, which must be located at the county seat ... ." In addition, § 14-23-1130 requires the governing body of a county to furnish equipment and books as described; that section continues: "In addition, the governing body of each county shall provide office space and additional support personnel necessary for the orderly conduct of the business of the probate court."

We observe that the two statutes from Title 14 were added to the Code of Laws in 1976 and amended in 1986 and in 1987; see Act No. 690 of 1976; Act No. 539 of 1986; and Act No. 157 of 1987 (not relevant to this discussion, however). On the other hand, § 4-1-80 has been "on the books" since 1900, having been last amended in 1965. Thus, § 14-23-1010 and 14-23-1130 represent the later or more recent expression of the legislature's will. Jolly v. Atlantic Greyhound Corp., 207 SC. 1, 35 S.E.2d 42 (1945). In addition, while § 4-1-80 mentions the probate court generally in terms of furnishing office space, §§ 14-23-1010 and 14-23-1130 are specific as to the requirements of furnishings, books, personnel, and the like that are required to be provided to a probate court by county council. These more specific statutes (which mention "county seat" and "office space" but not "county courthouse") may well be viewed as controlling over the older, more general § 4-1-80. Barnwell Bros. v. South Carolina St. Hwy. Dept., 17 F.Supp. 803, rev'd 303 U.S. 177 (1937).

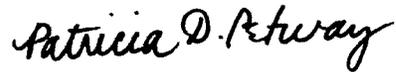
It could perhaps be argued that the term "county seat" means "courthouse," as the two terms have been viewed as synonymous for purposes of § 4-1-20, which statute sets forth procedures to be followed when citizens desire to relocate the county courthouse (i.e., county seat). See Morris v. Scott, 258 S.C. 435, 189 S.E.2d 28 (1972). That statute is readily distinguishable from the statutes under consideration here, however. Ordinarily, the term "county seat" refers to the city or town where the seat of government is located. See cases collected in 10 Words and Phrases, "County Seat," pp. 160-163.

Based on the foregoing, it is our opinion that the later statutes, §§ 14-23-1010 and 14-23-1130, would likely prevail over the earlier statute, § 4-1-80, so that the county governing body would be required to furnish the probate court with office space, furnishings, books and so forth within the county seat but not necessarily within the walls of the county courthouse.

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With kindest regards, I am

Sincerely,



Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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