

1977 S.C. Op. Atty. Gen. 193 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-259, 1977 WL 24600

Office of the Attorney General

State of South Carolina

Opinion No. 77-259

August 15, 1977

*1 TO: Louis L. Rosen
Assistant Director
S. C. Court Administration

QUESTION:

What constitutes a dependency action within the meaning of Section III, Article III, Act 690 of 1976?

AUTHORITIES CITED:

82 C.J.S. 'Statutes' § 331;

H. Clark, THE LAW OF DOMESTIC RELATIONS IN THE UNITED STATES (1968);

47 Am. Jur. 2d 'Juvenile Courts' § 24;

43 C.J.S. 'Infants' § 14; 98

OKLAHOMA STATUTES ANNOTATED § 10-101;

TENNESSEE CODE ANNOTATED § 37-101;

[MINNESOTA STATUTES ANNOTATED § 260.015;](#)

CODE OF LAWS OF SOUTH CAROLINA §§ 14-21-10; 14-21-20(c); 14-21-160; 14-21-510; 14-21-810; 43-9-10;

Act No. 690, ACTS AND JOINT RESOLUTIONS (1976);

[State ex rel. Wosler v. Porterfield, 258 S.W. 722 \(Mo.\)](#)

DISCUSSION:

Section 3, Article III, Act 690 of 1976, provides in part:

In delinquency, dependency and neglect actions, no court fee shall be charged against, and no witness fee shall be allowed to any party to a petition.

You have requested the opinion of this Office as to what constitutes a 'dependency' action within the meaning of the above quoted statute and thereby qualifies for an exemption from court fees.

Where several words are connected by a copulative conjunction, they are presumed to be of the same class, unless an intention to the contrary appears. 82 C.J.S. 'Statutes' § 331 at 656. Thus, as dependency appears within the phrase 'delinquency, dependency and neglect actions,' it is apparent that dependency, as do delinquency and neglect, refers to a class of actions by, for, concerning or on behalf of minors.

Most states have adopted dependency and neglect statutes and, generally, it is the purpose of such statutes to provide for the protection of a minor for whom support and care are not being furnished by his parents. H. Clark, *THE LAW OF DOMESTIC RELATIONS IN THE UNITED STATES* (1968) at 634. However, what actually constitutes dependency is largely determined from the statute and such definitions as it may contain. 43 C.J.S. 'Infants' § 14 at 71. Whether a particular action comes within the definition of dependency is usually a question of fact. 47 Am. Jur. 2d 'Juvenile Courts, etc.' § 24 at 1003-1004. There appears to be no precise common law definition of dependency and statutory definitions vary greatly from state to state (e.g., *OKLAHOMA STATUTES ANNOTATED* § 10-101; *TENNESSEE-CODE ANNOTATED* § 37-101; *MINNESOTA STATUTES ANNOTATED* § 260.015).

The Family Court Act (§ 14-21-10, *et seq.* CODE OF LAWS OF SOUTH CAROLINA) offers no definition of a dependency action. However, in § 14-21-20(c) of the CODE, child is defined as meaning:

A person less than seventeen years of age, where the child is dealt with as a juvenile delinquent. Where the child is dealt with as a dependent or neglected child and in all other matters in which the court has jurisdiction, the term 'child' shall mean a person under twenty-one years of age. (Emphasis added.)

*2 In other jurisdictions the term 'dependent child' has been construed as applying to normal children who must be supported by other than their natural guardian. Such children are dependent on another, or on the public, for support. Some jurisdictions have held a child of divorced or separated parents not be a dependent child so long as he is maintained by a parent. See generally 43 C.J.S. *Infants* § 98 and 47 Am. Jur. 2d 'Juvenile Courts, etc.' § 24. However, in construing the term 'dependent child,' the courts were interpreting rather specific statutes and statutory definitions. No such specificity exists in our Family Court Act.

In attempting to construe the meaning of 'dependency' as utilized in the Family Court Act and restated in Act 690 of 1976, it should be noted that provisions of the Family Court Act are to be liberally construed to the end that each child coming within the jurisdiction of the court shall receive, preferably in his own home, the care, guidance and control that will conduce to his welfare and the best interests of the State. § 14-21-160 CODE OF LAWS OF SOUTH CAROLINA. In view of this rule of construction and the broad meaning of 'child' when used in the context of dependent child as prescribed by § 14-21-20(c) CODE OF LAWS OF SOUTH CAROLINA, certain specific sections of the Family Court Act should be examined. Each of these sections relate to the protection of minors for whom support and care are not being furnished and each is somewhat analogous to dependency proceedings prescribed by statute in other jurisdictions. I call your attention to the following sections of the Family Court Act: § 14-21-510 Except as other provided herein, the [family] court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

(1) Concerning, any child living or found within geographical limits of its jurisdiction:

(a) Who is neglected as to proper or necessary education as required by law, or as to medical, psychiatric, psychological or other care necessary to his well-being, or who is abandoned by his parents or other custodian;

(b) Whose occupation, behavior, condition, environment or associations are such as to injure or endanger his welfare or that of others;

§ 14-21-810(a) In addition to the jurisdiction set forth above, the [family] court shall have jurisdiction:

(1) To hear and determine proceedings within the county to compel the support of a wife or child, whether legitimate or illegitimate.

(2) For the protection, guardianship and disposition of neglected or dependent minors in proceedings properly brought before it for the support of a wife or child.

(b) In the exercise of its jurisdiction, the court shall have power:

(1) To order support of a wife or child, or both, irrespective of whether they are likely to become a public charge.

(2) To include in the requirements of an order for support the providing of necessary shelter, food, clothing, care, medical attention, expenses of confinement, both before and after the birth, the expenses of educating his child, and other proper and reasonable expenses.

CONCLUSION:

*3 Therefore, it is the opinion of this Office that dependency action within the meaning of Section 3, Article III, Act 690 of 1976, refers to those actions where a minor is dependent upon the public for support or likely to become a public charge.

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