

1978 WL 34952 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 20, 1978

\*1 Mr. Harry W. Davis, Jr.

Director

S. C. Department of Juvenile Placement And Aftercare

P. O. Box 5535

Columbia, S. C. 29250

Dear Mr. Davis:

You have recently requested an opinion of this office as to whether the provision of Section 1, Article VIII of the Judicial Reform Act (No. 690 of 1976) requiring the counties to provide 'sufficient physical facilities for the operation' of juvenile intake and probation services includes items of equipment and furniture.

Section I, Article VIII, of the Judicial Reform Act, as amended by a Bill introduced April 20, 1978, reads as follows:

Each county shall provide sufficient physical facilities for the operation of the statewide family court system in that county. On July 1, 1978, the South Carolina Department of Juvenile Placement And Aftercare shall provide juvenile intake and probation services to the family courts of this state as provided in Section 6 of this Article.

Each county under the above provision is charged with the responsibility of providing a sufficient physical facility for the family court system inclusive of juvenile intake and probation. The county also has the total responsibility of juvenile intake and probation until July 1, 1978. Section 1, Article VIII, when read in conjunction with Section 2, Article VIII, places upon the county the financial responsibility of juvenile intake and probation until July 1, 1978.

Section 2, Article VIII, reads as follows:

The General Assembly shall in the annual general appropriation act provide for the salaries, equipment and supplies of family court judges and the court reporters and secretaries authorized by the provisions of item (C), Section 3, of Article II of this act. All other costs necessary for the operation of the family court system in a county including the salaries of necessary support personnel shall be provided for by the governing body of that county.

The amendment has the effect of transferring the financial responsibility as well as the authority of juvenile intake and probation into the hands of Juvenile Placement And Aftercare. As of July 1, 1978, Juvenile Placement And Aftercare has full responsibility for this service and is responsible for providing salaries and the necessary operating expenses. The county's only existing duty to the family court system after July 1, 1978, is to provide a 'sufficient physical facility.'

The statutory meaning of 'sufficient physical facility' is not defined in the act, therefore it is necessary to turn to a general definition to determine its meaning. The word 'facility' is commonly defined as 'something that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end.' (Webster's International Dictionary, 3rd ed.) It does not generally include furniture or other tangible items unless such items have the characteristics of being fixtures and therefore part of the structure itself. The word commonly used to include articles, either consumed in the performance of clerical work or whose manual use or operation is necessary, is 'equipment.' Equipment includes visible tangible furniture and apparatus on the premises which are usual and necessary for the operations therein conducted. (14A Words & Phrases).

\*2 The general rule of construction in South Carolina is that words or common terms used in a statute are to be given their common meaning in the absence of either a legislative intent to the contrary or other indicia which convey a different meaning than the common one. [State v. Sawyer, 104 S.C. 342, 88 S.E. 894 \(1916\)](#). Neither exception is present here, therefore, the very strong indication is that the legislature in using the word 'facility' without a specific reference to either equipment or furniture intended to place upon the county the responsibility of providing a sufficient structure without furniture and equipment for the use of the family court system.

Further evidence of the meaning of the term, 'sufficient physical facility' is found in the practical interpretation of the phrase by the Court Administration. The Court Administration over the past two years has construed the term as referring only to the building and fixtures exclusive of furniture and equipment. Under the authority of Section 2, Article VIII, the Court Administration has provided salaries, furniture, equipment, and supplies and other necessary operating expenses to the family court judges, court reporters, and authorized secretaries. With the assumption of statewide responsibility for juvenile intake and probation, Juvenile Placement And Aftercare will be in an analogous fiscal situation with the family court. And while the interpretation of the phrase rendered by the Court Administration may not be conclusive of the issue, under the general rules of statutory construction it is a contemporaneous and practical interpretation of the term and as such is presumed to be a correct interpretation. 2A Sands, Sutherland Statutory Construction, Section 49.09 (4th ed. 1974).

Therefore, based on the aforementioned generally accepted principles of statutory construction, it is the opinion of this office that the county is not responsible for providing items of equipment and furniture for the operation of juvenile intake and probation services after July 1, 1978.

Very truly yours,

B. J. Willoughby  
Staff Attorney

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