

The State of South Carolina

25 29 Library



Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-734-3636

December 10, 1986

The Honorable Billie Richardson  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, South Carolina 29526

Dear Ms. Richardson:

You have requested the opinion of this Office as to a couple of questions concerning microfilming records including whether records may be removed from the Clerk of Court's Office for microfilming by another county office. Although Rule 78 (a) of the South Carolina Rules of Civil Procedure requires Court Administration to establish procedures for maintaining, etc. records and other court documents by the Clerks of Court and certain other officials, etc., Court Administration has informed me that no such procedures have yet been developed that would address the question that you have posed. Therefore, I believe that caution would dictate that the following requirements of §14-17-570 of the Code of Laws of South Carolina, 1976 be observed: "[t]he Clerk shall not in any case permit either the books or records to be removed from his office...." Although §14-17-570 does permit the copying, this statute indicates that moving the records out of the Clerk of Court's Office for copying would not be permissible. South Carolina Department of Highways and Public Transportation v. Dickinson, (South Carolina Supreme Court Opinion No. 22483, February 26, 1986); Sutherland Statutory Construction, Vol. 2A, §46.01 et seq. These conclusions are also consistent with the provisions of §14-17-580 that make the Clerks responsible for the books and papers in their offices. See Ops. Atty. Gen., (July 26, 1984).

Although records may not be removed from the Clerk's Office, microfilming may be done there. No legal barrier appears to exist to another agency's handling the mailing of the microfilm for processing provided that the original records remain in the Clerk's Office during that time and that the Clerk is satisfied that the film taken for mailing is the film that is returned.

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In conclusion, in the absence of procedures developed pursuant to Rule 78 (a), §14-17-570 indicates that books and records should remain in the Clerk of Court's Office and that any copying should be done there. I have located no specific statutes for Horry County that are inconsistent with this conclusion.

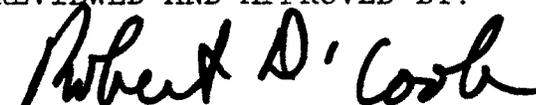
If you have any questions or if I may be of additional assistance, please let me know.

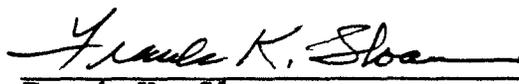
Yours very truly,

  
J. Emory Smith, Jr.  
Assistant Attorney General

JESjr/srcj  
cc: Mr. Larry N. Propes, Deputy Director  
South Carolina Court Administration

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Executive Assistance for Opinions

  
Frank K. Sloan  
Chief Deputy Attorney General