

1984 S.C. Op. Atty. Gen. 17 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-2, 1984 WL 159811

Office of the Attorney General

State of South Carolina

Opinion No. 84-2

January 16, 1984

*1 Captain Leon Gasque

Assistant Director

State Law Enforcement Division

Post Office Box 21398

Columbia, South Carolina 29221

Dear Captain Gasque:

As discussed on the telephone, I have reviewed the issue concerning your responsibilities under the Child Protection Act, Section 20-7-480 et seq. and the Client-Patient Protection Act, Section 43-30-10 et seq. CODE OF LAWS (1976), in which your agency is a recipient of reports by the Department of Youth Services. You advised me that the reports are received on a regular basis from DYS with dual notification under each of the above Acts.

Please find enclosed a prior opinion of the Office of October, 1983, to Mr. Davis in which responsibilities under the Child Protection Act were Discussed. In particular, it stated:

There exists no exception under South Carolina law that provides for the Department of Social Services to delegate its initial child abuse or neglect investigation responsibilities to the State Law Enforcement Division when the target of the investigation is a juvenile detention center. The State Law Enforcement Division . . . is only empowered to complete this initial child abuse or neglect investigation when an institution is operated by the Department of Social Services.

See: [Section 20-7-670, CODE OF LAWS \(1976\)](#). While county or local law enforcement agencies can receive reports under this Act, they are required to notify the county department of social services of their response to the report. [Section 20-7-510\(C\) \(1\), CODE OF LAWS \(1976\)](#). Since the specific provisions of [Section 20-7-670](#) cover institutional abuse and neglect that may occur in a DYS facility, all such reports received by you should be immediately referred to DSS for their initial inquiry. See also: [Section 20-7-650\(K\), CODE OF LAWS \(1976\)](#).

The Client-Patient Protection Act also provides that SLED, as well as the nursing home ombudsman, and the solicitor are the recipients of reports under this Act. [Section 43-30-40, CODE OF LAWS \(1976\)](#). The only mandatory investigation under this Act is for the coroner to complete when a death has occurred. [Section 43-30-50, CODE OF LAWS \(1976\)](#). The reports received by SLED must be referred to the nursing home ombudsman who is solely required to maintain a permanent file of all such records. [Section 43-30-40\(C\), CODE OF LAWS \(1976\)](#). Your investigative responsibilities are not mandated by the Act and you are simply required to use your discretion to investigate, not investigate, or refer it to a local law enforcement agency for its investigation as you see fit.

I apologize that our response cannot be more definitive. It might be useful to consider having the General Assembly amend the reporting provision by replacing SLED with the local enforcement agency where the alleged offense was committed. I hope that this resolves most of your inquiry.

Sincerely,

Donald J. Zelenka

*2 Assistant Attorney General

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