



ALAN WILSON  
ATTORNEY GENERAL

February 26, 2026

Mr. James Floyd, Jr.  
Director of Detention  
Marion County Sheriff's Office

Dear Director Floyd:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion regarding the per diem charged by the Department of Juvenile Justice to “the governing body of the law enforcement agency having original jurisdiction where the offense occurred” for juveniles who are in the Department’s custody. Specifically, you explain that the Department is authorized to charge a per diem for each child in its custody prior to adjudication and ask if the Department may charge a per diem to the governing body of the relevant law enforcement agency for children in its custody after they have been adjudicated and committed.

#### Law/Analysis

South Carolina Code Section 63-19-360(1) requires the Department of Juvenile Justice to “provid[e] correctional institutional services for juveniles committed under this chapter.” S.C. Code Ann. § 63-19-360(1) (Supp. 2025). Section 63-19-360(4) instructs the Department to “provid[e] juvenile detention services for juveniles charged with having committed a criminal offense who are found, after a detention screening or detention hearing, to require detention or placement outside the home pending an adjudication of delinquency or dispositional hearing.” *Id.* § 63-19-360(4). Section 63-19-360(4) goes on to state the following regarding the costs incurred while detaining juveniles prior to adjudication:

In Department of Juvenile Justice operated facilities, the department shall determine an amount of per diem for each child detained in a center, which must be paid by the governing body of the law enforcement agency having original jurisdiction where the offense occurred.

Id. As you state in your letter, prior to adjudication Section 63-19-360(4) explicitly authorizes the Department to charge the governing body of the law enforcement agency having original jurisdiction where the offense occurred an amount of per diem for each day a child is detained by the Department. Your question regards whether the authority to charge a per diem continues after a child has been adjudicated and committed to the care and custody of the Department. In short, it is the opinion of this Office that Section 63-19-360 does not authorize the Department of Juvenile

Director James Floyd, Jr.  
Page 2  
February 26, 2026

Justice to charge a per diem for children in its care after the children have been adjudicated and committed to the care and custody of the Department.

The primary aim of statutory interpretation “is to ascertain and give effect to the intent of the legislature.” Mid-State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996) (citing Gilstrap v. South Carolina Budget and Control Board, 310 S.C. 210, 423 S.E.2d 101 (1992)). Where a statute’s language is plain and unambiguous, “the text of a statute is considered the best evidence of the legislative intent or will.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (quoting Norman J. Singer, *Sutherland Statutory Construction* § 46.03 at 94 (5<sup>th</sup> ed. 1992)). “A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design, and policy of lawmakers.” Sloan v. S.C. Bd. of Physical Therapy Exam’rs, 370 S.C. 452, 468, 636 S.E.2d 598, 606–07 (2006). “Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute’s operation.” Id. at 469, 636 S.E.2d at 607. (citing Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988); State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991)).

To understand the extent of the per diem authority in Section 63-19-360(4), it is helpful to begin with the larger context of the juvenile detention system. Section 63-19-360 lays out various institutional services which the Department must provide. See S.C. Code Ann. § 63-19-360. Subsection (4) requires the Department to provide juvenile detention services for “juveniles charged with having committed a criminal offense who are found, after a detention screening or detention hearing, to require detention or placement outside the home pending an adjudication of delinquency or dispositional hearing.” Id. § 63-19-360(4). Subsection (4) requires the Department to house these juveniles prior to adjudication, but it allows counties or municipalities to maintain their own juvenile detention facilities to house juveniles prior to adjudication, subject to the Department’s oversight, if they so choose. Id. In essence, Subsection (4) gives counties and municipalities a choice between using the juvenile detention services of the Department or maintaining local juvenile detention facilities.

Subsection (4) then grants the Department the authority to charge a per diem to the “the governing body of the law enforcement agency having original jurisdiction where the offense occurred.” Id. The subsection continues by specifying the method of cost sharing regarding pre-adjudication juveniles. Specifically, the Department assumes one-third of the per diem cost and the governing body of the law enforcement agency having original jurisdiction where the offense occurred assumes two-thirds of the cost. Id. In addition, Subsection (4) states that the cost of transportation to and from the facility is the responsibility of the law enforcement agency having jurisdiction where the offense was committed, while the cost of transportation of juveniles between department facilities is the responsibility of the Department. Id. Notably, “[p]er diem funds received by the department must be placed in a separate account by the department for operation of all preadjudicatory state facilities.” Id. Subsections (5) and (6) create requirements for county and municipal operated facilities in which pre-adjudication juveniles are detained.

Further, Subsection (4) specifically mentions preadjudicatory detention throughout. Subsection (4) requires the Department to provide pre-adjudication juvenile detention services, in contrast to the post-adjudication correctional institutional services described in Subsection (1). After laying out some of the requirements of juvenile detention centers, Subsection (4) specifies that the Department must prepare an initial report regarding the facilities needed for “preadjudicatory detention of juveniles in this State” and annual reports regarding “the status of all preadjudicatory juvenile detention facilities” in the State. Next, the subsection addresses the approvals necessary to close a “preadjudicatory” detention center. Finally, Subsection (4) creates a cost sharing scheme, which in part is based on “the average operating cost among all preadjudicatory state facilities” and requires funds received under Subsection (4) to be “be placed in a separate account by the department for operation of all preadjudicatory state facilities.” In short, Subsection (4) throughout its text addresses the detention of juveniles prior to adjudication.

Thus, the per diem authority in Subsection (4) appears by its context to be limited to pre-adjudication juveniles. While the Department’s authority to charge and collect a per diem created in Subsection (4) is not explicitly limited to the pre-adjudication detention of juveniles, it strains credulity to suggest that the authority created in Subsection (4), which wholly focuses on pre-adjudication detention, was meant to extend after adjudication.

The question then becomes whether the Department has additional authority, located elsewhere, which would allow it to continue charging a per diem after adjudication. Section 63-19-1610 provides that:

From the time of lawful reception of a child by the Department of Juvenile Justice and during the child’s stay in custody in a correctional institution, facility, or program operated by the department, the child shall be under the exclusive care, custody, and control of the department. All expenses must be borne by the State except local governments utilizing the juvenile detention services provided by the Department of Juvenile Justice must pay the department a per diem of fifty dollars a day per child.

S.C. Code Ann. § 63-19-1610 (2010). Section 63-19-1610 requires the Department to charge local governments utilizing “the juvenile detention services provided by” the Department a per diem of \$50.00 a day per child. This both caps the per diem at \$50.00 per day per child and ties it to use of the Department’s “juvenile detention services.”

Section 63-19-360 requires the Department to provide “correctional institutional services for juveniles committed under [Title 63, Chapter 19],” *see* § 63-19-360(1), and “juvenile detention services” for “juveniles charged with having committed a criminal offense who are found, after a detention screening or detention hearing, to require detention or placement outside the home pending an adjudication of delinquency or dispositional hearing,” *see* § 63-16-360(4). Thus, Section 63-19-360 uses the term “juvenile detention services” to refer to pre-adjudication detention. Where statutes deal with the same subject matter, it is well established that they “are in

Director James Floyd, Jr.

Page 4

February 26, 2026

*pari materia* and must be construed together, if possible, to produce a single, harmonious result.” Penman v. City of Columbia, 387 S.C. 131, 138,691 S.E.2d 465, 468 (2010) (quoting Joiner ex rel. Rivas v. Rivas, 342 S.C. 102, 109, 536 S.E.2d 372, 375 (2000)); see also Op. S.C. Atty. Gen., 2000 WL 1347162 at \*1 (Aug. 25, 2000) (The meaning of related statutes and their effect must be determined with reference to each other so as to “construe them together into one integrated system of law.”) (quoting Fishburne v. Fishburne, 171 S.C. 408, 172 S.E. 426 (1932)). Section 63-19-1610 uses the term “juvenile detention services” and is found in the same Title and Chapter as Section 63-19-360. Moreover, both sections deal with the services which the Department is required to provide. Thus, reading the statutes together, the per diem mandate of Section 63-19-1610 also appears to be limited to the juvenile detention services provided prior to a juvenile’s adjudication and commitment. This accords with cost sharing laid out in Section 63-19-360 and with Section 63-19-1610’s mandate that “[a]ll expenses must be borne by the State.”

The Office is aware of pending legislation which would adjust the per diem rate which the Department is able to charge. See Senate Bill 374, 126<sup>th</sup> Session of the South Carolina General Assembly. However, based on our review of the legislation, it would alter the amount of the per diem not when the Department is authorized to charge it. Additionally, the Office is aware of a pending budgetary proviso which would authorize the Department to charge an additional \$125 per day to local governments, in addition to the \$50 per diem from Section 63-19-360(4). See Part 1B Section 67 - N120 § 67.16 (Capital Expenditure Charge) House Bill 5126, 126<sup>th</sup> Session of the South Carolina General Assembly. Similarly, passage of this proviso would allow for an additional charge and would not alter when the Department is authorized to charge the \$50 per diem created in Section 63-19-360(4).

In the event the General Assembly meant the Department’s per diem authority to extend past adjudication, this Office believes statutory amendment would clarify and remedy this situation.

### **Conclusion**

It is the opinion of this Office that the Department of Juvenile Justice while authorized, and required, to charge a per diem to the governing body of the law enforcement agency having original jurisdiction where an offense occurred for children in its care prior to adjudication, the Department is not authorized to charge a per diem after the child has been adjudicated and committed to its custody and care.

Director James Floyd, Jr.  
Page 5  
February 26, 2026

Sincerely,



David Leggett  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General Emeritus