

The State of South Carolina



Office of the Attorney General

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January 23, 1995

The Honorable Flora Brooks Boyd, Director
Department of Juvenile Justice
Post Office Box 21069
Columbia, South Carolina 29221-1069

Dear Ms. Boyd:

You requested the opinion of this Office as to the applicability of S.C. Code Ann. § 15-27-15 (1993 Cum. Supp.) to juveniles committed to the care of the Department of Juvenile Justice who are hearing-impaired. In your letter, you expressed your concern that, on those occasions in which a hearing-impaired juvenile may be committed to the Department's care, the Department comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation of the Handicapped Act, in addition to making reasonable accommodations for the juvenile's handicapping condition and to communicate effectively with the juvenile.

Section 15-27-15 provides in relevant part:

Whenever any deaf person is a party to any legal proceeding or a witness therein, or confined to any institution, the court shall appoint a qualified interpreter, or as many as needed, ... to interpret the proceedings to and the testimony of the deaf person unless the deaf person waives such or the judge finds that it is not necessary for the fulfillment of justice. The court shall determine a reasonable fee for interpreting services [Emphasis added.]

Within § 4A (Judicial Department) of Part I of the 1994-95 Appropriations Act, Act No. 497 of 1994, is an appropriation for interpreters of the deaf.

The Honorable Flora Brooks Boyd

Page 2

January 23, 1995

The primary objective of both the courts and this Office in construing any statute is to determine and effectuate legislative intent if it is at all possible to do so. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Words used are to be given their ordinary and usual meanings. Windham v. Pace, 192 S.C. 271, 6 S.E.2d 270 (1940). All parts of the statute must be given force and effect. State ex rel. McLeod v. Nessler, 273 S.C. 371, 256 S.E.2d 419 (1979).

Section 15-27-15 contains no definitions to assist in its interpretation; thus, a general definition of the terms used therein will be employed. "Proceedings" is a word broad in scope, describing a "prescribed course of action for enforcing legal rights and remedies." Kennie v. City of Westbrook, 254 A.2d 39, 43 (Me. 1969). "Proceedings" can include "actions and special proceedings before judicial tribunals as well as proceedings pending before quasi-judicial officers and boards." State ex rel. Johnson v. Independent School Dist. No. 810, Wabasha County, 260 Minn. 237, 109 N.W.2d 596, 602 (1961). Moreover, the term "proceedings" is modified by the term "legal." "Institution" is defined variously as "a place of confinement," The American Heritage Dictionary 666 (2d College Ed. 1982), or "an establishment, especially one of eleemosynary or public character or one affecting a community." Black's Law Dictionary 719 (5th Ed. 1979). The notion of "confinement" is the "state of being confined; shut in; imprisoned." Black's Law Dictionary 270. Conceivably, a juvenile committed to the care of the Department of Juvenile Justice and housed in the Department's facilities could be considered to be "confined" to an "institution."

For purposes of § 15-27-15, further consideration is required. Reading the statute as a whole and giving weight to all parts, not merely singling out the phrase "confined to any institution," suggests that the statute is used for those instances in which a deaf person is a party to, or a witness in, legal actions (judicial, quasi-judicial, or administrative) at which rights or remedies are to be determined, and the deaf person needs to have the legal proceedings and/or his testimony interpreted. Due to the uses of the term "proceedings" and the phrase "legal proceedings" and the pervasive role of the court system (including the Judicial Department) in implementing and paying for these interpretative services, it is our opinion that provision of such services and payment therefor under § 15-27-15 as such relates to deaf persons "confined to any institution," is for instances in which the deaf person who is confined to an institution is in need of interpretative services for legal proceedings in which he is a party or in which he is to testify.

It is also observed that the act of which § 15-27-15 was a part, Act No. 97, 1987 Acts and Joint Resolutions, is an act concerning various judicial department matters. Moreover, the General Assembly, in its adoption of Act No. 97 of 1987, directed that the statute in question be codified as § 15-27-15. Title 15 contains the laws relative to civil

The Honorable Flora Brooks Boyd

Page 3

January 23, 1995

procedure and remedies, and chapter 27 relates to trials and certain incidents thereof. Such would evidence the legislative intent that the application of § 15-27-15 be related to legal proceedings.

It is recognized that the Americans with Disabilities Act and other federal laws impose many requirements for long-needed accommodations of handicapping conditions and that undoubtedly the Department of Juvenile Justice must comply with applicable laws. However, § 15-27-15 would not be applicable to situations other than legal proceedings in which the deaf person's legal rights or remedies may be adjudicated in a judicial, quasi-judicial, or administrative setting, in which the deaf person is a party or a witness and it is necessary to interpret the legal proceedings to and the testimony of the deaf person, unless the deaf person waives such or the tribunal finds that such is not necessary for the fulfillment of justice.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Zeb C. Williams, III

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Deputy Attorney General