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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

December 17, 1997

The Honorable Charles R. Sharpe
Member, House of Representatives
Box 652
Wagener, SC 29164

Dear Representative Sharpe:

You have requested the advice of this Office as to whether the Clerks of Court are responsible for the collection and distribution of restitution ordered by a Court. You attached a memorandum to Circuit Court Judges and Clerks of Court from the Interim Director of the Department of Probation, Parole and Pardon Services. That memorandum states that the Chief Justice of the Supreme Court asked him to contact those judges and clerks. The memorandum states that restitution ordered by judges should be paid at the Clerks' offices. It relates that the Department was unable to continue collecting restitution because the General Assembly did not fund the program.

This memorandum indicates that the Chief Justice has already addressed this matter which would certainly be controlling. This situation also appears to have been contemplated by Act No. 437 §8, 1996 S.C. Acts 2684 which provides that implementation of changes in the law regarding restitution are contingent upon the appropriation of sufficient funding by the General Assembly. See S.C. Code Ann §17-25-322 (Supp. 1996). The Act further states that nothing therein relieves clerks and other named officers from continuing to address provisions of the law regarding restitution in effect prior to Act 437. Other statutory provisions indicate that Clerks have accepted restitution payments in the past. See §§ 14-1-220, and 14-17-725 (Supp. 1996).

For these reasons, Clerks should accept restitution payments as provided in the Department's memorandum. This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents

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the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.
Assistant Deputy Attorney General

CC: Mr. Stephen G. Birnie, Interim Director

JESJr.