

## The State of South Carolina



## Office of the Attorney General

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April 9, 1987

L. L. Hector DeBruhl, Sheriff  
County of Kershaw  
Post Office Box 75  
Camden, South Carolina 29020

Dear Sheriff DeBruhl:

In a letter to this Office you questioned whether only a sheriff or deputy sheriff is empowered to serve process originating from the family court, the Department of Social Services, the Department of Youth Services, and the clerk of court. You particularly questioned whether other law enforcement officers, such as city policemen, are authorized to serve such papers. In raising your question specific reference was made to Section 14-21-570 of the Code. Such provision, however, has been repealed and replaced by Section 20-7-745 of the Code which states in part:

(s)ervice of summons and any process of the ... (family) ... court shall be made as provided by law for service in the court of common pleas ... Service of summons, process or notice required by this chapter ... (the State Children's Code) ... may be made by any suitable person under the direction of the court, and upon request of the court shall be made by any peace officer. (Emphasis added.)

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While Section 20-7-745 does provide for the manner of service of summons, process and notice, I would particularly direct your attention to Rule 4 of the State Rules of Civil Procedure as amended in 1986, a copy of which I am enclosing. Act No. 100 of 1985, which adopted the Rules, specifically provided that where there is a conflict between the Rules and any statutory provision as to practice and procedure, the Rules shall control. Also, pursuant to Rule 81 of the Rules of Civil Procedure, these Rules are applicable to the family courts "... to the extent they are not inconsistent with the statutes and rules governing those courts."

As stated in Rule 4:

(s)ervice of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or his deputy or any other duly constituted law enforcement officer or by any person designated by the court who is not less than eighteen (18) years of age and not an attorney in or a party to the action, except that a subpoena may be served as provided in Rule 45. (Emphasis added.)

Therefore, service is not necessarily restricted to a sheriff or his deputies. Moreover, reference is again made to Section 20-7-745, a statute relating to the family courts, which, as stated, prevails over the Rules to the extent it is inconsistent with such Rules, and which specifically authorizes service of summons, process, or notice required by the Children's Code to be made "... upon request of the court ... by any peace officer."

This Office can only refer you to these various provisions which state the manner in which service of various papers may be made. As to how such are implemented, you may wish to discuss this matter with the family court, the clerk of court, or any agency which requests the assistance of your office. I would only further state that, of course, there is the general requirement set forth in Section 23-15-40 of the Code which imposes

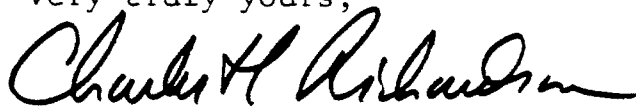
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upon a sheriff or his deputy the obligation to:

... serve, execute and return every process,  
rule, order or notice issued by any court of  
record in this State or by any other compe-  
tent authority.

With best wishes, I am

Very truly yours,

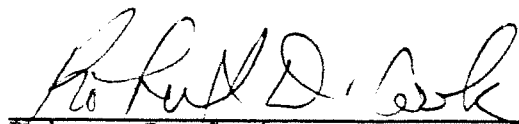


Charles H. Richardson  
Assistant Attorney General

CHR/an

Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook  
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