

1984 S.C. Op. Atty. Gen. 69 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-28, 1984 WL 159835

Office of the Attorney General

State of South Carolina

Opinion No. 84-28

March 13, 1984

\*1 Mr. J. P. Pratt, II  
Executive Director  
South Carolina Department of  
Parole and Community Corrections  
Post Office Box 50666  
Columbia, South Carolina 29250

Dear Mr. Pratt:

You have requested an opinion of this office concerning an interpretation of [Section 24-21-270, CODE OF LAWS \(1976\)](#). In its pertinent part, the statute reads ‘the governing body of each county in which a probation officer serves shall provide, in or near the courthouse, suitable office space for such officer.’ Your inquiry is directed at whether an office located three miles from the courthouse meets the statute’s requirements of being ‘in or near the courthouse.’ Since factual circumstances are involved that we are unable to investigate, our office is providing its response as a letter of legal advice rather than a binding opinion of this office.

The phrase ‘in’ or ‘near’ is a relative term, and its signification depends largely upon the subject matter in relation to which it is used, and the circumstances under which it becomes necessary to apply it to surrounding objects. [Minter v. State, 104 Ga. 743, 30 S.E. 989 \(1898\)](#). The precise issue raised in your inquiry has never been addressed by our Supreme Court. In [Verner v. Muller, 89 S.C. 117, 71 S.E. 654 \(1911\)](#), the Court held that it could not say as a matter of law that a county precinct a quarter of a mile from the crossing of a stream and a road may not be characterized as located ‘near’ such point when the statute required that the voting place shall be ‘at or near’ the said fork.

Each case of interpretation of ‘in or near’ must be determined by its special circumstances. The statute arose in 1941, Act No. 562, providing for the creation of the South Carolina Probation and Parole Board. In Section 17 of that Act, it provided for offices for probation officers. In that section, it stated ‘that the governing body of each county in which a probation officer serves, shall provide, in or near the court house, suitable office space for such officer.’ (Emphasis added). 1942 ACTS AND JOINT RESOLUTIONS 1463. This language remains in our present statute. You have advised me that most counties have provided such offices in or within walking distance of the courthouse. A reasonable walking distance certainly meets the statute’s requirements through custom and usage throughout the State in its interpretation.

With the increase of in-court responsibilities due to the increase in the terms of court since 1941, it would appear that such offices should remain as close as practical to the courthouse so that the demands of the probation officer as an officer of the court can be maintained. Any consideration of moving probation offices away from the courthouse must be balanced in favor of ‘nearness’ with the priority of serving the needs of the court comes first by insuring the expeditious delivery of information as the court sees fit. If the proposed location will not meet the needs of the court, then under the specific circumstances, it would not comply with the ‘in or near’ mandate of our present law.

Sincerely,

\*2 Donald J. Zelenka  
Assistant Attorney General

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