

1983 WL 181696 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 31, 1983

***1 Re: Authority of The Children's Bureau of South Carolina to Collect Fees for Certain Services it Provides**

Mr. Francis E. Lewis
Executive Director
The Children's Bureau of South Carolina
1001 Harden Street
Suite 225
Columbia, South Carolina 29205

Dear Mr. Lewis:

You have requested an opinion from this office as to whether your agency has the authority to collect fees for certain services that you provide.

It is my understanding from discussions with you regarding this matter that you propose to assess the following fees where applicable: application fee, home study fee, transfer fee, post legal adoption fee, and a placement fee. All fees are fixed except the placement fee which will be determined on a sliding scale based on family income.

It is well settled in the law that the power to collect revenue and provide for the fiscal management of the state is peculiarly within the discretion of the legislature. [State of South Carolina, ex rel., McLeod v. McInnis, Chairman, et al., SC, 295 SE2d 633 \(1982\)](#), 81 C.J.S. States § 224.

It is equally as well settled that state agencies have only such powers as may have been delegated to them by the legislature through express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. 81 C.J.S. States § 120.

A search of the laws governing the Children's Bureau has failed to reveal any express authority by which the agency can collect fees for services. Act No. 1052, Acts and Joint Resolutions of South Carolina, 1968, authorized the Children's Bureau to accept and hold gifts, donations, or contributions and receive devises and bequests, but this provision is limited and the authority to collect fees cannot properly be implied from it. Likewise, I can find no implied authority for the collection of fees from the particular duty imposed on the Bureau of placing for adoption dependent children committed to its care. [§ 20-7-1830 S.C. Code of Laws, 1976](#), as amended.

Therefore, it is the opinion of this office that the Children's Bureau of South Carolina does not have the authority at the present time to collect fees for services and therefore cannot charge fees unless and until the legislative confers such authority on the Children's Bureau.¹

Sincerely,

B.J. Willoughby
Assistant Attorney General

Footnotes

- 1 This letter expresses no opinion as to the acceptability of the literal fee amounts proposed nor as to the expenditure of the fees if authority to collect them is granted. The appropriation of the fees collected is strictly a legislative matter.
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