

1983 WL 181942 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 14, 1983

*1 Mr. John A. Crossscope, Jr.
Interim Commissioner
South Carolina Department of Social Services
Post Office Box 1520
Columbia, South Carolina 29202-9988

Dear Mr. Crossscope:

Initially, let me apologize for not previously responding to your letter addressed to me and dated April 1, 1983. My failure to previously respond having been caused by the inadvertent misfiling of your letter with a group of other inquiries that I have previously responded to. This error was brought to my attention only recently when contacted by Mr. Raymond Halford from your agency concerning the status of this matter.

In your letter you indicate that in the [1976 Code, § 43-5-160](#), specifically addressed penalties for obtaining or attempting to obtain welfare assistance by fraud. As indicated in your letter, 1978 Act No. 549 substantially revised the article in which this statute was contained and has substituted §§ [43-5-10](#) through [43-5-255](#), [Code of Laws of South Carolina \(Cumulative Supplement 1982\)](#) for the former statutes §§ [43-5-10](#) through [43-5-210](#). It does not appear that this specific statute was either replaced or redesignated. However, as I am sure you are aware, § 16-13-430 which was enacted in 1976 (Act No. 548) does specifically address obtaining or attempting to obtain food stamps or coupons by fraud.

Concerning the obtaining or attempting to obtain general welfare assistance (AFDC) by fraud, I feel it would be advantageous, if for no other purpose but to clarify this situation, to reintroduce legislation similar to [§ 43-5-160](#) as it existed in the 1976 Code. This is especially true since I do not believe that attempting to obtain goods by false pretenses is in fact a crime in the State of South Carolina since obtaining goods by false pretenses is a misdemeanor and I know of no general law that makes an attempt to commit a misdemeanor a crime.¹ However, I do believe that this state's conspiracy statute (16-7-410) can be used in cases where two or more people conspire together to obtain or attempt to obtain assistance by fraud.

Hoping this information has been of some help to you. I am
Sincerely,

Larry L. Vanderbilt
Assistant Attorney General

Footnotes

- 1 An attempt to commit a felony is generally considered to be a misdemeanor. [State v. Storgee, 277 S.C. 412, 288 S.E.2d 397 \(1982\)](#).
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