

1982 WL 189508 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 14, 1982

***1 Re: City Work Program for prisoners convicted through municipal court**

Mrs. Darene Stankus
Personnel Director
City of Florence, S. C.
City-County Complex
Drawer P
Florence, S. C. 29501

Dear Mrs. Stankus:

I am in receipt of your letter requesting an opinion of this Office concerning the feasibility of a work program for municipal convicts. I apologize for the delay in response.

Your first inquiry is whether the City of Florence should enter into a prison work program whereby prisoners can opt to do assigned work tasks in place of serving jail time. The Office of the Attorney General cannot advise the City of what substantive policies to develop. However, it would be necessary to develop it through the creation of the program and sentences of the municipal judges of Florence.

Your second inquiry is whether the City of Florence can legally enter into such a program. [§ 14-25-75, Code of Laws](#) (1976), as amended (1981) provides that 'any municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper including, without limitation, restitution or public service employment.' Therefore, such a program can be legally entered into under South Carolina law.

Your third and fourth inquiry concerns whether the prisoner will be an 'employee.' There is no statutory requirement that the prisoner be considered an 'employee' nor accrue any employment benefits. The decision rests as a policy decision. Your attention is directed to § 24-7-30 and [§ 24-7-120, Code of Laws](#) (1976) which provide that the municipal authority establishing a municipal 'chain gang' is required to pay all the expenses of dieting and guarding and § 8-25-10, et seq., [Code of Laws](#) (1976), providing for state government volunteers as guidance in the development of any program at the municipal level. In the area of Workmen's Compensation, your attention is directed to [§ 42-1-470, Code of Laws](#), which provides that it does not generally apply to municipal prisoners or convicts. But see: § 42-1-480, 500. [Code of Laws](#) (1976).

Your final inquiry concerns what benefits the participating prisoner should receive. Though inherent is the benefit of not serving a period of incarceration, remaining benefits are policy matters that the City must resolve. South Carolina law does not provide any requirements.

If you have any questions, please feel free to contact me. Also, you should contact the City Attorney for Florence for more specifics with respect to the establishment of any program.

Sincerely,

Donald J. Zelenka
Assistant Attorney General

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