

1980 S.C. Op. Atty. Gen. 154 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-101, 1980 WL 81983

Office of the Attorney General

State of South Carolina

Opinion No. 80-101

October 24, 1980

**\*1 SUBJECT: Juveniles; Public Information**

Act No. 483 of the Acts and Joint Resolutions of 1980 amended [Section 14-21-30, S.C. Code of Laws, 1976](#), to make confidential the official juvenile records of the Department of Youth Services and Juvenile Placement and Aftercare. All information obtained and social records prepared in the discharge of official duty by the Department of Youth Services and Juvenile Placement and Aftercare are included, and those records are subject to disclosure only upon order of the Family Court.

TO: Honorable Grady A. Decell  
State Director  
Department of Youth Services

QUESTIONS:

1. Whether the Department of Youth Services can legitimately send school records to the different school systems within the State?
2. Whether Act No. 483 of Acts of 1980 affects the exchange of information between State Boards under the provisions of Section 24-15-120?
3. Whether Act No. 483 of Acts of 1980 will affect exchange of information between the Department of Youth Services and the Department of Mental Health and Mental Retardation?

STATUTES:

[Section 14-21-30, South Carolina Code of Laws, 1976](#); [Section 24-15-90, South Carolina Code of Laws, 1976](#); [Section 24-15-100, South Carolina Code of Laws, 1976](#); [Section 24-15-120, South Carolina Code of Laws, 1976](#); and [Section 24-15-130, South Carolina Code of Laws, 1976](#).

DISCUSSION:

You have inquired as to the effect of Act No. 483 of 1980 on the exchange of juvenile record information. The specific inquiries are discussed below.

As you are aware, Act No. 483 of 1980, amended [Section 14-21-30, S.C. Code of Laws, 1976](#), which section generally provided for confidentiality of records of juveniles under the jurisdiction of the Family Court. The section now reads as follows:

‘[T]he official juvenile records of the courts, the Department of Youth Services and the Department of Juvenile Placement and Aftercare shall be open to inspection only by consent of the judge . . . All information obtained and social records prepared in the discharge of official duty by . . . Department of Youth Services and Department of Juvenile Placement and Aftercare shall be confidential and shall not be disclosed directly or indirectly to anyone, other than the judge or others entitled under this chapter and Chapters 15 and 17 of Title 24, to receive such information, unless and until otherwise ordered by the judge.’

The statute provides three situations in which juvenile records might be disclosed. The following disclosures are permitted under the Section:

- (1) The recipient is entitled to the records under Chapter 21 of Title 14 or Chapter 15 or 17 of Title 24;
- (2) The records are not 'official' or do not constitute 'information obtained and social records prepared in the discharge of office duty'; or
- (3) In the event neither (1) nor (2) apply, the records may be disclosed by order of the family court.

\*2 The first question posed is whether the Department of Youth Services may send school records to the different school systems within the State. The answer would appear to depend upon two factors: (1) the nature of the records; and (2) the character of the school.

The first factor listed above concerns the nature of the record to be disclosed. If the school records could be described as other than official records or if they could be defined in some manner other than 'information obtained and social records prepared in the discharge of official duty', the school records could be sent to any school within the State. Under Title 15 of Chapter 24, the Board of the Department of Youth Services is charged with managing various schools. Although schools operated by the Board receive funds from the State Department of Education (see Section 24-15-130), school records would seem to be clearly information obtained in the discharge of the official duties of the Department of Youth Services. Thus, any such records could be disclosed only after appropriate court authorization.

The second factor concerns the character of the school. Section 24-15-100 sets out a policy of allowing children to be transferred to any of the schools or vocational training centers under the Board's jurisdiction, at the discretion of the Board. Schools and vocational training centers under the jurisdiction of the Department of Youth Services would appear to be among those contemplated by [Section 14-21-30](#) as entitled to receive information obtained by the Department of Youth Services. On the other hand, it appears that schools outside of those under the jurisdiction of the Department of Youth Services are not entitled to receive official juvenile records in the absence of a court order.

The second question concerns the exchange of information between the Department of Youth Services and boards of other State institutions. Section 24-15-120 provides that the Department of Youth Services Board may enter into agreements with boards of any other State institutions for the purpose of effecting a more efficient and economical management of the institutions that it supervises. From the face of the statute, however, the concern seems to be with the management of the institutions, not with the exchange of information regarding individual juveniles. Since the provision does not appear to encompass an entitlement for other boards to receive juvenile records, other state institutions would have to obtain a court order to obtain these records, with the possible exception discussed below.

The third question is whether [Section 14-21-30](#) will affect the exchange of information between the Departments of Youth Services and the Departments of Mental Retardation and Mental Health. Whether the Department of Mental Health or Mental Retardation would be considered to be among those entitled under Chapter 15 to receive official juvenile records is unclear from Section 24-15-90, the section which pertains to procedures for children who are determined to be mentally ill or mentally retarded. The section provides that after the determination that a child is mentally ill or mentally retarded is made, 'the Board may institute necessary legal action to accomplish the transfer of such person to [another] State institution . . .'. It would appear that a court order for the transfer of the juvenile records could be obtained concurrently with the legal action for the transfer of the person to another State institution. That procedure is desirable, and I strongly recommend it.

\*3 The amendment to [Section 14-21-30](#) makes it clear that the information in the possession of the Department concerning juveniles under its care and custody are to be treated as confidential, subject to disclosures only under the provisions of the Act. All doubts concerning disclosure should be resolved in favor of the juveniles, and court orders obtained prior to disclosure.

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