

1977 WL 37173 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 13, 1977

\*1 Mr. Steven A. Zobel  
Intake Supervisor  
Family Court of Charleston County  
Post Office Box 56  
Charleston, South Carolina 29402

Dear Mr. Zobel:

This is in response to your request of May 25, 1977, for assistance in answering several questions concerning the authority of probation counselors with the Charleston County Family Court. Although your questions were rather specific in regard to particular duties and powers of such probation counselors, the most appropriate answer to your inquiries is a more general one.

Under the Family Court Act of 1968, as codified in the 1962 Code of Laws of South Carolina (1975 Cum. Supp.), § 15-1095, et seq., the position and duties of the probation counselor in a family court are discussed. Since a probation counselor is an officer of the court, he would have the power to perform various functions for the court, if the court has authorized him to do so, and provided the performance of the functions by a probation counselor would not interfere with or contradict some other Code section.

Specifically, under § 15-1095.15, a probation counselor could serve process, summons or notice, if he was 'under the direction of the court'. And under § 15-1095.6, which provides that a probation counselor should 'take charge of any child before and after hearing as may be directed by the court', he would have the authority to take a child into custody.

Furthermore, § 15-1095.20 has commented that the purpose of probation is 'the protection, guidance and well-being of the child and his family', and that probation generally means 'casework services during a continuance of the case'. So, the most appropriate conclusion, then, is that a probation counselor for the Family Court of Charleston County does have the power to serve process and take children into custody, if he has the authorization of the Court. It is recommended that such authorization by the Court be reduced to a written order.

Sincerely yours,

G. Conrad Derrick  
Law Clerk

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