

1979 WL 43080 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 25, 1979

\*1 Mr. Michael Grant LeFever  
Deputy Director  
Juvenile Placement And Aftercare  
P. O. Box 5535  
Columbia, South Carolina 29250

Dear Mike:

Please accept my apologies for this extended delay in responding to your letter of March 26, 1979. The last few months have been incredibly busy with a good deal of my time being spent outside the office.

In your letter you express concern over the increasing number of other member states of the Interstate Compact on Juveniles who are failing to reimburse our state for the transportation expenses when a runaway, absconded or escaped juvenile is returned to his home state. Specifically, you present the following questions:

1. Does the Interstate Compact on Juveniles require that the member states be responsible for paying the transportation costs for the return of their runaway, escaped, or absconded juveniles?
2. Under the authority of the Interstate Compact on Juveniles, does the Department of Juvenile Placement and Aftercare have the right to request reimbursement in those instances where South Carolina funds are used to return a juvenile to a member state?
3. What actions may the Department of Juvenile Placement and Aftercare employ to seek adequate repayment from those states which ignore or fail to cooperate with our reimbursement requests?
4. As the State's Attorney, what actions can the Attorney General initiate in order to recover funds owed to South Carolina by the members of the Interstate Compact on Juveniles?

Section 24-17-10 of the Code of Laws of South Carolina, 1976, otherwise referred to as Article IV(b) and Article V(b) of the Interstate Compact on Juveniles offers a definitive answer to your first question. The provisions unmistakably place the onus of payment for transportation on the state to which the juvenile is returned.

As to your second question, the Compact does not authorize a reimbursement procedure for transportation fees, but neither does it explicitly or implicitly prohibit such a procedure. It simply doesn't speak to the issue. Therefore, in view of the fact that the responsibility for payment ultimately rests with the receiving state, it is reasonable to assume that you are justified in making a request for reimbursement.

You have inquired as to what actions your agency may employ to seek repayment from states which ignore your requests. Since the Compact contains no set procedure for collection of expenses and no enforcement provisions for failure to comply with its provisions, it amounts to little more than a gentleman's agreement. Initially, I would suggest that your agency attempt to exert pressure on the authorities within the member states who are failing to comply with the provisions of the Compact by contacting the state officials such as the governor and attorney general, apprising them of the apparent situation, and enlisting their help in resolving the problem. Further pressure may be brought to bear on the delinquent

states through verbal and written complaints to national associations and organizations of which you are a member. Generally, these associations have a monthly or quarterly newsletter in which an official complaint could be registered.

\*2 Finally, you inquire as to what legal action could be initiated by our office in order to recover the funds. While the initiation of a lawsuit against the derelict state is a theoretical possibility, in our opinion it is not a practical alternative. The initiation of a lawsuit between states would involve extensive legal research just to determine if such an action would lie and if so in what state and which court system. If it were determined that such an action could be brought, it would cost the State a disproportionate amount of time and expense to travel to the individual states in order to bring the actions. Under the circumstances, legal recourse is simply not a viable alternative.

In conclusion, there is simply no effective method for assuring that our State will be paid for the return of juveniles short of requiring payment for transportation from the home state prior to returning the juvenile. This approach may result in unwanted responsibility for out-of-state juveniles, but unless a change in attitudes of the participating states can be effected through pressure from your agency on the appropriate state officials, it appears to be your only alternative. Legal action is not an advisable alternative.

I hope this information will be of some benefit to you.

Sincerely,

B. J. Willoughby  
State Attorney

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