

1979 S.C. Op. Atty. Gen. 161 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-114, 1979 WL 29117

Office of the Attorney General

State of South Carolina

Opinion No. 79-114

September 19, 1979

***1 SUBJECT: Juveniles, Juvenile Courts, Education, School Districts**

The Department of Juvenile Placement and Aftercare may initiate a policy of attempting to first assist the appropriate authorities to institute proceedings pursuant to [Section 59-65-60 of the Code](#) against the parents of the child as opposed to proceeding against the child as a delinquent once having received a report of school non-attendance from the appropriate authorities.

TO: Mr. Harry W. Davis, Jr.

Director

South Carolina Department of Juvenile Placement and Aftercare

QUESTION:

May the Department of Juvenile Placement and Aftercare initiate a policy of attempting to first assist the appropriate authorities to institute proceedings pursuant to [Section 59-65-60 of the Code](#) against the parents of the child as opposed to proceeding against the child as a delinquent once having received a report of school non-attendance from the appropriate authorities?

STATUTES AND CASES:

Code of Laws of South Carolina, 1976, as amended; [Sections 59-65-20, 59-65-50, 59-65-60, 59-65-70, 14-21-480, 24-15-310](#), et seq.

DISCUSSION:

Pursuant to the statutes, it is my understanding that, Juvenile Placement and Aftercare has the responsibility for providing juvenile intake and probation services to the Family Courts throughout the State. The Department provides counseling staff locally to provide assistance to the Family Court. Pursuant to [Section 59-65-50](#) the appropriate authorities of a school district report the inability to obtain the school attendance of a child in writing to the Family Court. At this point, intake counselors from the Department are available to assist the Court and the Solicitor in determining what action should be taken.

It is my understanding that traditionally school non-attendance or truancy has been handled by the initiation of a proceeding against the juvenile in the Family Court. In your request you suggested, that, after having experience in this matter and studying the problem, the Department has determined that the current policy has not been satisfactory. The Department proposes to make a change in its policy with respect to the advice and recommendation which it will make to the courts and the action that it will take in these circumstances.

In [Section 59-65-60 of the Code](#), an alternative to proceeding against the child has been provided by the Legislature. It states that the Court upon receipt of a report of non-attendance from the appropriate school district authorities, may

order the appearance before the Court of the responsible parent or guardian, and, if deemed necessary, the child involved, for such action as the Court may deem necessary to carry out the provisions of the law with respect to compulsory school attendance. The statute provides that after notice and hearing, the Court may order the parent or guardian to comply with its order and upon failure to do so, punish such parent or guardian by contempt as set forth in the statute. Your Department proposes in the exercise of its proper function in assisting the Family Courts to, as a matter of policy, assist the school district attendance supervisor to initiate proceedings under this statute. You inquire as to whether or not this proposed policy is consistent with the law.

CONCLUSION:

*2 After reviewing the statutes involved, it is the conclusion of this Office that the proposed policy is entirely consistent with the law of this State. The Legislature has provided that the State may proceed against the child in the Family Court under some form of a delinquency proceeding, and, has alternatively provided, that the State may also proceed criminally against the parent or guardian under [Section 59-65-20](#); or it may proceed civilly against the parent or guardian under the contempt procedure provided for in [Section 59-65-60](#). There is nothing in the law which would require the Court or the State to proceed against the child. It would appear that the Department is attempting to reach a more satisfactory solution to a problem which has not been resolved by the traditional policy employed in the past. The statutes clearly provide, or course, that only the school district has authority to bring the matter to the attention of the Court and once having received the report, the Court has the ultimate responsibility for determining what should be done. In any event, the proposed policy of assisting in instituting initially a proceeding under the contempt section against the parent or guardian is entirely consistent with the law and consistent with the Department's responsibility to counsel and recommend action to the Court.

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Deputy Attorney General

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