

1975 S.C. Op. Atty. Gen. 66 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3993, 1975 WL 22291

Office of the Attorney General

State of South Carolina

Opinion No. 3993

March 10, 1975

***1 Re: Commitment of an individual following the observation period under Section 32-977**

Honorable Francis B. Nicholson
Judge
Eighth Judicial Circuit
P. O. Box 3087, Station A
Greenwood, South Carolina 29646

Dear Judge Nicholson:

I am writing in response to your letter addressed to Mr. McLeod, dated February 11, 1975, concerning the above captioned matter. According to the provisions of the new mental health act, an individual may be committed for fifteen(15) or thirty(30) days for observation and examination. At the conclusion of this period of time the hospital shall make a report to the court of the individual's mental condition. The law does not give the hospital any authority or right to hold the individual for a period of time longer than thirty days, even though the conclusion reached by the hospital is that the individual is mentally ill. Because of this gap in the law the hospital, pursuant to the advice of this office, has been attempting to obtain Court orders from the Court with criminal jurisdiction, ordering the individual detained at the hospital pending the hearing.

I am aware that this imposes an additional burden on the Courts of South Carolina, but because of this gap in the law, the hospital needs some authority to continue holding these individuals after the fifteen(15) or thirty(30) day period has expired. While realizing the value of unsolicited advice, I would like to add, however, that the Court, in order to facilitate the proceedings and save itself valuable time, may encompass in its original observation order pursuant to Section 32-977 an order for continued hospitalization until such time as the hearing required by Section 32-979 may be held if the hospital concludes that the individual is mentally ill at the end of the observation period.

I hope this information will be of some help to you in the future. Please feel free to contact this office if further questions arise regarding this matter.

Very truly yours,

Edwin E. Evans
Staff Attorney

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