

1975 WL 29595 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 18, 1975

\*1 Mr. Benjamin Mays Blocker  
Director  
Richland County Department of Social Services  
2020 Hampton Street  
Columbia, South Carolina 29204

Dear Mr. Blocker:

Your letter of February 6, concerning Act #1082, 1974, has been referred to me for response.

As I understand it, the basic question you want answered is what is the Department's role when an interested person petitions the Family Court for protective placement. This Office is currently involved in litigation on the precise point you have raised, and it is the consensus here that Section 4(1) of the Act allows only 'the department, an agency, or guardian' to initiate proceedings in the Family Court for protective care.

Therefore, your Department would not be required to assist third parties or interested parties, since they have no standing to request protective placement.

However, under Section 3 the Department has a duty to cooperate with interested parties who request protective services. If the interested person was also a guardian who might petition the Family Court under Section 4, for protective placement in many cases it would clearly be in the Department's interest to join the guardian as co-petitioner.

Also, although your Department would not be required to prepare a comprehensive evaluation for the guardian before his petition is filed with the Family Court, Section 4(2) requires the Court to secure such evaluation from the Department before protective placement is ordered. Thus, in all but frivolous petitions, your Department will be called on to make evaluations. Where convenient, you might choose to make the evaluation before the Court actually requests such information.

Due to pending litigation, I request that you withhold this opinion from publication. If you have further questions, please call.

Sincerely,

Jim Bradford  
Law Clerk

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