

1974 S.C. Op. Atty. Gen. 144 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3768, 1974 WL 21282

Office of the Attorney General

State of South Carolina

Opinion No. 3768

May 6, 1974

*1 Honorable D. Cravens Ravenel
Commissioner
Richland County Election Commission
1408 Hampton Street
Columbia, South Carolina 29201

Dear Mr. Ravenel:

Thank you for your letter of March 11, 1974, concerning who would constitute a bystander for the purposes of South Carolina Code of Laws, 1962, as amended, Section 23–400.56. This statute provides that any person who needs assistance in voting may select a bystander to aid in the preparation of his ballot.

BLACK'S Law Dictionary, 4th ed., defines 'bystander' as:

One who stands near; a chance looker-on; hence one who has no concern with the business being transacted.

Case law exists to the effect that a person does not necessarily have to be physically present in order to be considered a bystander. See [Bennett v. State](#), 161 Ark. 496, 257 S.W. 372; Words and Phrases, 'Bystander.'

The only statutory requirements governing who may be selected as a bystander are found in South Carolina Code of Laws, 1962, as amended, Section 23–400.56, which requires that the bystander be an elector of the precinct and be selected by the voter.

In the absence of a clear legislative showing to the contrary, words are to be given their clear and ordinary meaning. 32 C.J.S. Statutes, Section 316(6). Therefore, a bystander could be anyone who is in the vicinity of the polling precinct, it not being necessary for that person to be actually within the room where the election is taking place.

In addition you have asked who is entitled to assistance. South Carolina Code of Laws, 1962, as amended, Section 23–400.57, states:

Only those persons who are unable to read or write or who are physically unable or incapacitated from preparing a ballot or voting shall be entitled to receive assistance of any kind in voting.

The same restriction is also applicable if the voting is done by voting machine. See Section 23–424. If assistance is given by the managers to persons who do not fall within these classifications, the manager would be in violation of his oath which is found at Section 23–400.3 and states in part that he ' . . . will not lawfully assist any voter to prepare his ballot and will not advise any voter as to how he should vote at this election.'

Very truly yours,

Daniel R. McLeod
Attorney General

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