

1973 S.C. Op. Atty. Gen. 124 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3514, 1973 WL 20974

Office of the Attorney General

State of South Carolina

Opinion No. 3514

April 20, 1973

**\*1 The Director of South Carolina Department of Corrections may, within his discretion, transfer committed 'youthful offenders' to a county jail or detention center for service of sentence only when the requisite standards of security, segregation and treatment prescribed by the Youthful Offender Act are available therein.**

Director

South Carolina Department of Corrections

You have requested the advice of this office as to whether an individual sentenced under the Youthful Offender Act (Sections 55–391–55–400.6, Code of Laws of South Carolina (1962), as amended) may be transferred to a county jail to complete the service of his sentence.

For purposes of this opinion it is assumed that an individual has been sentenced to the 'custody of the Department for treatment and supervision' pursuant to Sections 55–395(c) for an indefinite term, not to exceed six years.

Section 55–398 requires that each committed youthful offender undergo examination at one of the reception and evaluation centers operated by or in behalf of the Department and that the center forward to the Director a report of its findings with respect to the youthful offender and its recommendations as to his treatment.

Section 55–399 provides:

On receipt of the report and recommendations . . . the director *may*:

- (a) Recommend to the Division that the committed youthful offender be released conditionally under supervision; or
- (b) Allocate and direct the transfer of the committed youthful offender to an agency or institution for treatment; or
- (c) Order the committed youthful offender confined and afforded treatment under such conditions as he believes best designed, for the protection of the public. (Emphasis supplied)

Section 55–396 relates to institutions for the treatment of youthful offenders and provides:

Youthful offenders *shall undergo treatment in minimum security institutions*, including training schools, hospitals, farms, forestry and other camps, including vocational training facilities and other institutions and agencies *that will provide the essential varieties of treatment*.

*The Director, as far as is advisable and necessary, shall designate, set aside and adopt institutions and agencies under the control of the Department and the Division for the purpose of carrying out the objectives of this chapter. The Director may further maintain a cooperative program with the Department of Vocational Rehabilitation involving the operation of reception and evaluation centers, utilizing funds and staffing services of the Department which are appropriate for matching with Federal Vocational Rehabilitation funds.*

*Insofar as practical and to the greatest degree possible, such institutions shall be used only for treatment of committed youthful offenders, and such youthful offenders shall be segregated from other offenders, and classes of committed youthful offenders shall be segregated according to their needs for treatment. (Emphasis supplied.)*

\*2 A reading of the Youthful Offender Act in its entirety reveals an obvious legislative intent to provide for the special handling of offenders between the ages of seventeen and twenty-five years with treatment being the ultimate objective and concern. As defined in the Act "treatment" means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders, this may also include vocational and other training deemed fit and necessary by the Division.' Section 55-392(e).

While the Act clearly contemplates and directs that facilities under the control of the Department of Corrections shall be set aside and adopted for the purpose of carrying out the objectives of the Act, wide discretion is vested within the Director in determining how, where and under what circumstances the requisite treatment can best be accomplished. That discretion is, of course, subject to the mandate that the institution be a minimum security one and that, where practical and to the greatest degree possible, such institution be used exclusively for the treatment of committed youthful offenders and provide segregation from other offenders.

Thus it is the opinion of this office that *if* the requisite standards for security, segregation and treatment are available in a county jail or detention center, the Youthful Offender Act would *not* preclude the utilization of such a facility, and you, as Director, would be authorized within your discretion to so assign an individual thereto for completion of his sentence. Such a transfer must necessarily be with the consent of the governing body of the facility involved and subject to your authority of re-assignment or re-transfer.

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