

1972 WL 25171 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 11, 1972

*1 Mrs. Josephine A. Cannon, ACSW
Executive Director
The Children's Bureau of South Carolina
1001 Main Street
Columbia, South Carolina 29201

Dear Mrs. Cannon:

Thank you for your letter of January 5, 1972, concerning potential liability of your employees in case of accidents on the job involving a client of your department.

In specific answer to the questions you raise, I advise:

1. The State does not assume any legal or financial responsibility in the event a caseworker has an accident on the job for a worker, client, or others who might be accompanying her in the line of duty, subject to the following: The State has a liability for motor vehicle injuries which occur while an automobile is being used on official business. This is an obligation which third parties, i.e., the public, may take advantage of in suits against the State itself. Thus, if a State automobile on official business injures another person, that person may sue your department and recover amounts which are limited by statute if it is proved to be the fault of the State vehicle. The question of liability would depend upon who was at fault in the accident. The State is not liable for injuries to your client while being transported, but the liability of your caseworker is the same liability which exists in the case of an individual private citizen, and this depends upon a number of circumstances.

2. A caseworker probably needs to extend her liability coverage to include coverage while she is driving a State-owned vehicle. The cost of this must be borne by the individual and cannot be borne by the State, in my opinion, unless specifically so authorized.

In other words, your department can be sued for its negligence in the operation of automobiles, and recovery within certain limits can be had. Unfortunately, some departments have been sued, and it is found that there are no funds available to pay any judgment which may be rendered following a lawsuit. The individual personal liability of a caseworker, while on official business, continues to be that which she occupies as a private individual citizen, and she is subject to suit just as any other private individual.

The procurement of liability insurance to cover this risk is not an authorized State expenditure unless specifically authorized by statute, as it has been in a few instances, such as the handling of explosives by teachers in colleges and universities.

If the foregoing is not in full answer to your question, please feel free to call upon us.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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