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STATE OF ALABAMA

SEP 26 1989

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Honorable George C. Simpson
District Judge
18th Judicial Circuit
P. O. Box 880
Ashland, AL 36251

Juveniles - Victims - Penalties

Under Section 12-15-1, et seq.,
Code of Alabama, 1975 provision
is made for the imposition of
penalties upon a juvenile being
adjudged delinquent or in need
of supervision making the victim
of such juvenile eligible for
application to the Alabama Crime
Victims Compensation Commission
for compensation.

Dear Judge Simpson:

This opinion is issued in response to your request for an
opinion from the Attorney General in answer to the following
question.

QUESTION

Is any penalty imposed in a juvenile case
wherein the juvenile is adjudged delinquent
or in need of supervision, thereafter placed
on supervised probation, with custody to
remain in the parent, condition of probation
requiring payment of court costs and
periodical reporting to a juvenile probation
officer?

FACTS AND ANALYSIS

Section 12-15-71(c), Code of Alabama, 1975, provides the various available dispositions of a juvenile case upon adjudication of delinquency or in need of supervision. Among these are the authority to commit the juvenile to the Department of Youth Services, local public or private agencies, or relatives and the discretion to assess fines and restitution. It is the opinion of this Office that the imposition of any or all of these alternatives would constitute a penalty comparable to the sentence pronounced by a circuit criminal court against adult offenders. Though in the factual setting presented by your question, the child is placed on probation, which includes returning to live with his parent(s), the referenced statute provides that the Court may curtail the juvenile's freedom by confinement with specific state agencies. The Code also gives the Court discretion to order fines, restitution and court costs, a portion of which is designated to go the Victims Compensation Commission. The ordering of any such "penalties" would allow a victim of the juvenile's actions to apply for compensation to the Crime Victims Compensation Commission pursuant of § 15-23-3(2), Code of Alabama, 1975.

However, it also is the opinion of this Office that following the presentation of a child to the juvenile court and the attempt by the intake office to resolve the matter by informal adjustment as provided in Rule 15, Alabama Rules of Juvenile Procedure, would not constitute a formal action whereby a penalty could be imposed by the Court. Such a proceeding does not include the filing of a formal petition for an adjudication. This conclusion would also apply to the entry of a consent decree by the Court in accordance with Rule 16, ARJP, wherein the Court ordered the continued supervision of the child prior to the entry of an adjudication order. It is the opinion of this Office that the Rules of Juvenile Procedure provide for such alternatives in appropriate cases to specifically avoid a determination of delinquency or in need of supervision by the Court. Therefore, also avoiding the options of ordering the commitment of the juvenile and/or assessment of fines, court costs and restitution.

CONCLUSION

Under Section 12-15-71(c), Code of Alabama, 1975, a juvenile court is authorized to impose the penalties of commitment to specific institutions; including the Department

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of Youth Services or the Department of Human Resources and local public or private agencies, as well as, in the Court's discretion, the assessment of fines, court costs and restitution. The disposition of a juvenile proceeding resulting in any of the above actions would constitute the imposition of a penalty following an adjudication of delinquency or in need of supervision and meet the prerequisite to application for compensation under Section 15-23-1, et seq., Code of Alabama, 1975, otherwise known as the Alabama Crime Victims Compensation Act.

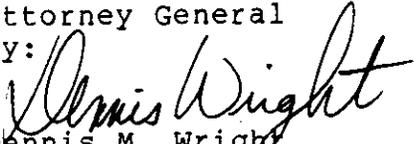
Exceptions to this position would include the resolution of a juvenile proceeding by an informal adjustment prior to the filing of a formal petition and the entry of a consent decree by the Court prior to the determination of delinquency or need of supervision by adjudication order.

I hope this sufficiently answers your question. If this Office can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General

By:


Dennis M. Wright
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