

85-00518

OFFICE OF THE ATTORNEY GENERAL

CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

SEP 16 1985

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM M. SEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Thomas Baxter, Judge
Juvenile Court of Washington
County
P. O. Box 1025
Chatom, AL 36518

Juvenile Courts - Juvenile
Delinquents - Fees

A juvenile who has been declared delinquent or in need of supervision may be ordered by a juvenile court to pay a monthly supervision fee for probation services pursuant to § 12-15-71(c) (5).

Dear Judge Baxter:

This is in reply to your request for an opinion of the Attorney General. You requested an opinion on the question of "whether a Juvenile Court can order a child to pay a monthly supervision fee (maximum \$10.00 per month) for juvenile probation services."

In an Opinion to Honorable George M. Phyfer, Director, Department of Youth Services, issued under date of September 12, 1983, (a copy of which is attached), the Attorney General opined that a juvenile court may order a child committed to the custody of the state to reimburse the proper agencies for juvenile probation services pursuant to the provisions of Section 12-15-71(c) (5), Code of Alabama 1975. The situation in which a juvenile is declared delinquent or in need of supervision under § 12-15-71(c) and then placed on probation under § 12-15-71(c)(2) does not differ from the situation in which a juvenile is committed to the custody of the State of Alabama, under § 12-15-71(c)(3)(a) or (b) and then placed on

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probation. It is, therefore, the opinion of the Attorney General that a juvenile may be ordered to pay a monthly supervision fee for juvenile probation services if the child is found to be delinquent or in need of supervision under § 12-15-71(c)(5) for the same reasons as discussed in the opinion to Honorable George M. Phyfer.

We hope this reply sufficiently answers your question. If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General
By:

A handwritten signature in cursive script, reading "Leura J. Garrett". The signature is written in dark ink and is positioned above the typed name of the signatory.

LEURA J. GARRETT
Assistant Attorney General

CAG/LJG/pd

83-00473
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CHARLES A. GRADDICK
ATTORNEY GENERAL
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ADMINISTRATIVE ASSISTANT

SEP 12 1983

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable George M. Phyfer
Director
Department of Youth Services
P. O. Box 66
Mt. Meigs, Alabama 36057

Youth Services, Department of
Juveniles - Restitution

The juvenile probation office may collect money earned by a child as payment for fines, costs and restitution when so ordered by the juvenile court. A juvenile court may order a child in custody to reimburse from his earnings state agencies for the cost of his incarceration and supervision under §12-15-71.

Dear Mr. Phyfer:

This is in reply to your request for an opinion of the Attorney General. In your request, you stated that the District Court of Limestone County ordered a child committed to the custody of the Alabama Department of Youth Services. The court also ordered the child to pay restitution for 1) juvenile probation services, 2) costs of court, 3) jail time in the City of Athens, Alabama, and 4) the costs of a court appointed attorney. Finally, the court ordered the Department of Youth Services to forward any money received in behalf of or earned by the child to the Juvenile Probation Office.

In light of the Limestone County District Court's order, you asked the following questions:

- 1) Can the Alabama Department of Youth Services legally pay any funds from any source to a "Juvenile Probation Office" wherein no responsible person who has been bonded to receive funds has been designated to receive such monies?
- 2) Can the Alabama Department of Youth Services legally be required to pay money due to the State of Alabama to a "Juvenile Probation Office"?
- 3) Can a child committed to the custody of the state of Alabama from a juvenile court be legally required to pay for juvenile probation services to said child?
- 4) Can a child be legally required to pay to a city estimated expenses for the incarceration of said child in the facility owned by that city?

As to your first question, the Attorney General ruled in an opinion to Honorable Allen L. Tapley, Director, Administrative Office of Courts, Montgomery, Alabama, under date of December 7, 1982, that a juvenile probation officer may collect costs and fines in a juvenile case if the court explicitly so orders. Likewise, it is permissible for the juvenile probation office of Limestone County to collect payments for restitution, fines and costs from juveniles pursuant to the juvenile court's order.

As to your second question, it is the opinion of the Attorney General that the juvenile court's order that the Department of Youth Services pay money to the juvenile probation office was merely a procedural directive of the court as to the method of payment by the child. Since the juvenile probation office may legally collect sums under a court order, the Department of Youth Services may comply with the court's directive to pay money to that office. If, however, the Department of Youth Services chooses not to comply with the court's directive, any challenge of the authority of the court to order the department to pay over money must be resolved by the judicial system. The Attorney General strongly supports restitution programs within the juvenile court system and urges the Department of Youth Services to voluntarily comply with the Limestone County Juvenile Court's directive.

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As to your last two questions, it is the opinion of the Attorney General that the juvenile court may order a child committed to the custody of the state to reimburse the proper agencies for juvenile probation services and incarceration. Section 12-15-71, Code of Alabama 1975, provides that if a child is found to be delinquent or in need of supervision the court may, among other dispositions, transfer custody of the child to the Department of Youth Services and commit the child to a specific institution and "[m]ake such other order as the court in its discretion shall deem to be for the welfare and best interests of the child, including assessment of fines ... and such restitution as the court deems appropriate."

In addition to the broad discretionary powers of the juvenile court under §12-15-71, §12-15-11, Code of Alabama 1975, provides that the juvenile court in any case shall order the payment of court costs, attorneys fees, costs incurred in the care of the child and other costs by the parents or guardians of the child if they are financially able or from the separate estate of the child. Implicit in this section is the recognition of the financial responsibility of the child or his guardian for costs incurred in the disposition of his case. Therefore, if the child has earnings, it is within the broad discretionary power of the juvenile court under §12-15-71 to order that he use those earnings to reimburse state agencies for his care and supervision.

We hope this response sufficiently answers your questions. If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

By-



LEURA J. GARRETT
Assistant Attorney General

LJG/mi