

Opinion No. 2010-004

April 5, 2010

The Honorable Tom Tatum, II
Prosecuting Attorney
Fifteenth Judicial District
Post Office Box 1599
Danville, Arkansas 72833

Dear Mr. Tatum:

You have asked for my opinion about whether certain juveniles must be separated “by sight and sound” when the juveniles are detained. I have paraphrased your question as follows:

Under Arkansas law, a court may determine that a juvenile is part of a “family in need of services” (FINS). If a FINS juvenile violates the court’s order, the court may order the FINS juvenile be detained in a juvenile-detention facility. When so detained, FINS juveniles must be “separated from detained juveniles charged or held for delinquency.” Must FINS juveniles be so separate that they cannot hear or see delinquent juveniles?

RESPONSE

No, in my opinion. When we follow standard rules of statutory construction, the General Assembly’s intent appears to be that FINS juveniles need not be separated “by sight and sound” when detained in juvenile-detention facilities.

DISCUSSION

Your question is one of statutory interpretation. When interpreting statutes, the basic rule is to give effect to the intent of the General Assembly.¹ To determine a statute’s meaning, the first rule is to construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language.² The statute must be construed so that no word is left void, superfluous, or insignificant, and, if possible, every word is given meaning.³

Two considerations indicate that the General Assembly did not intend to require FINS juveniles—who are being detained for violating a court order—to be separated by sight and sound. Certain juveniles must be separated by sight and sound *when they are held in adult facilities*.⁴ FINS juveniles who are detained for violating a court order cannot be held in adult facilities.⁵ It follows from this, in my opinion, that subsection 9-37-336(a)(2)(C)(ii) does not require that FINS juveniles be separated from delinquent juveniles by sight and sound.

¹ *E.g.*, *Sykes v. Williams*, 373 Ark. 236, 283 S.W.3d 209 (2008); Op. Att’y Gen. 2008-126.

² *E.g.*, *First Arkansas Bail Bonds, Inc. v. State*, 373 Ark. 463, 284 S.W.3d 525 (2008).

³ *Id.*

⁴ A.C.A. § 9-27-336(b)(2)(A) (“A juvenile alleged to have committed a delinquent act may be held in an adult jail or lock-up ... provided that he or she is separated by sight and sound from adults who are pretrial detainees or convicted persons.”); A.C.A. § 9-37-336(b)(3)(A)(iv) (A juvenile alleged to have committed a delinquent act who is awaiting an initial appearance before a judge may be held in an adult jail or lock-up for up to twenty-four (24) hours, excluding weekends and holidays, provided the following conditions exist ... [t]he juvenile is separated by sight and sound from adults who are pretrial detainees or convicted persons.”).

⁵ A.C.A. § 9-27-336(a)(2)(C)(ii) (“A [FINS] juvenile ... shall be separated from detained juveniles charged or held for delinquency. The holding shall not occur in any facility utilized for incarceration of adults.”).

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Assistant Attorney General Ryan Owsley prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

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