

clerk is *not* authorized to invest, or do anything else with, such funds not specifically provided for by Ch. 40. If the clerk pays the jurors by warrant, upon his receipt of the duly requisitioned and transmitted *state funds*, he is required by law to deposit such moneys in a qualified county depository and draw his warrants on, or order payment from, the *county depository*, and not to invest such funds.

AS TO QUESTION 3:

Chapter 73-282, *supra*, provides that moneys in the registry of the court shall be invested by depositing such funds in interest-bearing certificates at the discretion of the clerk, subject to the guidelines contained in §1 of Ch. 73-282. A statute found on the statute books must be presumed to be valid and must be given effect until it is judicially declared unconstitutional. *Evans v. Hillsborough Co.*, 186 So. 193 (Fla. 1938). Therefore, under Ch. 73-282, the clerk may invest funds in the court registry in qualified depositories in interest-bearing certificates at his discretion.

073-409—November 7, 1973

COUNTIES

MAY ADMINISTER FEDERAL AID TO STATE ATTORNEYS  
AND PUBLIC DEFENDERS BUT MAY NOT CONTRIBUTE  
COUNTY FUNDS

To: *Reubin O'D. Askew, Governor, Tallahassee*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTIONS:

1. Do §§27.34 and 27.54, F. S., preclude counties from applying for, receiving, and administering federal funds on behalf of the offices of state attorneys and public defenders?
2. Do §§27.34 and 27.54, F. S., preclude counties from appropriating and providing county revenue as cash match for federal funds for programs to be implemented in state attorney and public defender offices?

SUMMARY:

Sections 27.34 and 27.54, F. S., do not prohibit a county from applying for, receiving, and administering federal funds on behalf of the offices of state attorneys and public defenders; however, pending legislative or judicial clarification, a county should not appropriate its own funds to match federal funds to finance a program that is a part of the operation of a state attorney's or public defender's office.

AS TO QUESTION 1:

You advise that the 1973 Florida LEAA (Law Enforcement Assistance Administration) Comprehensive State Plan to use federal LEAA funds includes programs to be carried out in the offices of the state attorneys and public defenders of this state relating to Professional Administrators and Pre-Trial Intervention/Diversion. Because of the federal requirement that a certain percentage of LEAA funds (73.7 percent in fiscal year 1973) be passed on to units of general local government, it is necessary to channel these funds through the counties. I understand that the Governor's Council on Criminal Justice has already approved the allocation of some of these funds for a Pre-Trial Intervention/Diversion Program in a state attorney's office, to be channeled through the county to the state attorney. However, some question has arisen as to the propriety of a county's applying for these funds and passing them on to a state

attorney, in view of the provisions of §§27.34 and 27.54, *supra* (Ch. 73-215 and 73-216, Laws of Florida), providing as to state attorneys and public defenders, respectively, that "[n]o county or municipality shall appropriate or contribute funds to the operation of the various state attorneys [the offices of the various public defenders]."

I do not conceive that the mere channeling of federal funds through a county to a state attorney or a public defender for carrying out a special federal-state program would violate the statute. The purpose of the statutory prohibition, as I understand it, is to "phase out" the county's financing of the prosecution and defense of persons charged with violations of the criminal laws of this state (or of municipal ordinances when the municipal court has been abolished) except for the matters and things specifically described in the statute (which are related generally to the physical space and equipment basically required to operate the office). Here, however, the county would act merely as the administrator of federal funds to carry out a special state-federal program in the state attorney's office. It is true that any funds received by a county from the federal or state governments become "county" funds, subject to disbursement in accordance with the requirements of law respecting the expenditures of county funds. But the funds here in question have been earmarked by the Governor's Council on Criminal Justice for a particular program, and are in the possession of the county only because of the allocation of such funds to that program. Thus, even though it might be said that these funds are, technically, county funds, it does not necessarily follow that they are county funds within the purview of the statute, which prohibits a county from "appropriating" or "contributing" funds to the operation of the office of a state attorney or public defender.

In construing a statute, the cardinal rule is, of course, to ascertain and give effect to the legislative purpose and intent. *State ex rel. Florida Jai Alai, Inc. v. State Racing Commission*, 112 So.2d 825 (Fla. 1959). But when the meaning of a statute is at all doubtful, the law favors a rational, sensible construction in the light of its practical operation and effect. *Maryland Cas. Co. v. Marshall*, 106 So.2d 212 (1 D.C.A. Fla., 1958); *Higgins v. Higgins*, 146 So.2d 122 (3 D.C.A. Fla., 1962). The mere channeling of federal funds through a county to a state attorney or public defender for the purpose of financing a special state-federal program is clearly not within the purpose and intent of the statutory prohibition in question; and I have the view that it is not an "appropriation" or "contribution" of county funds for the operation of the office of a state attorney or public defender within the meaning and intent of the law.

Accordingly, your first question is answered in the negative.

#### AS TO QUESTION 2:

Under the facts here stated, county funds would be used to match the federal funds channeled through the county; and the real question is whether the use of county funds for the purpose of assisting in financing a joint federal-state program of the type mentioned above would constitute a contribution to the operation of the office of the state attorney or public defender within the meaning and intent of the statute. While the answer to this question is not entirely free from doubt, I am inclined to the view that, pending legislative or judicial clarification, county funds should not be appropriated for such a purpose.

As noted above, the legislature apparently intended to "phase out" all county financing of the operations of the offices of state attorneys and public defenders—to cut off all cash flow of county funds to such offices except for the specific items mentioned in the statute. While the programs referred to above—Professional Administrators and Pre-Trial Intervention/Diversion—are special innovative programs that are not *required* in order to carry out the routine and ordinary operation of the state attorney's office, they would nevertheless become a part of the operation of his office; and it is inescapable that county funds

derived from ad valorem taxation or other sources that could be used for other county functions would be used for that purpose.

It can, of course, be argued that the legislature intended to prohibit the use of county funds only for the routine and ordinary operations of the office of a state attorney or public defender and that a special state-federal program for the improvement of our system of prosecuting persons charged with crime—which would, presumably, serve a county as well as a state purpose, as witness the many special acts which have, in the past, authorized counties to augment the salaries of state attorneys—would not be within the purview of the statutory prohibition. However, in view of the clear legislative intent to cut off all cash flow of county funds to the operation of the offices of state attorneys and public defenders, except for the designated items, it cannot be concluded with any degree of certainty that the legislature so intended; and, in these circumstances, I cannot recommend that county funds that could be used for other county purposes be appropriated as matching funds for this type of program.

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#### ADULT RIGHTS LAW

##### DISTRIBUTION UNDER WILL OR LIFE INSURANCE POLICY; INTESTATE DISTRIBUTION

*To: Roger H. Wilson, Representative, 60th District, Seminole*

*Prepared by: Jan Dunn, Assistant Attorney General*

#### QUESTIONS:

1. Does the Adult Rights Law have the effect of changing the specific age to eighteen if a specific age, such as age twenty-one, is a prerequisite for the final distribution of an estate?
2. Is the same result obtained in the case of life insurance benefits wherein the proceeds are held in trust or distributed on a controlled basis until a certain age, such as age twenty-one.

#### SUMMARY:

The Adult Rights Law has no effect on a document such as a will or life insurance policy which requires the beneficiary to be twenty-one years of age as a prerequisite for the final distribution of assets.

The estate may be an intestate one which the law requires a representative or guardian to hold the property in trust for a minor beneficiary until he reaches the age of majority. Any assets given to a representative or guardian after July 1, 1973, can be distributed to a person eighteen years of age or older. If distribution of assets was made to a representative or guardian on behalf of a minor beneficiary before July 1, 1973, a judicial determination is necessary to determine whether the Adult Rights Law has any effect on such distribution.

Chapter 73-21, Laws of Florida [§743.07, F. S.], the Adult Rights Law, which gives to persons eighteen through twenty years of age all rights, privileges, and obligations of all persons twenty-one years of age or older, affects only existing laws. There is no law requiring a donor to provide that final distribution of his estate take place when the beneficiary reaches twenty-one years of age. Any will or any life insurance policy written or entered into before or after July 1, 1973, the effective date of the Adult Rights Law, which requires the age of twenty-one as a prerequisite for a partial or final distributions of an estate or of insurance benefits, is to be complied with. Chapter 73-21 should have no effect on any such document.