

1971 O. A. G.

OFFICIAL OPINION NO. 18

July 29, 1971

Hon. Marilou W. Lightfoot, Reporter
Indiana Supreme and Appellate Courts
State House
Indianapolis, Indiana

Dear Mrs. Lightfoot:

This is in response to your request for my Official Opinion on the following question:

Reference Burns' Section 49-2008 (IC 1971-33-15-10-1), "is this office obligated to provide to legal aid societies, complete sets of Supreme and Appellate Court reports without charge, or must we provide only those reports distributed subsequent to the establishment of a particular society?"

ANALYSIS

The pertinent portion of the statute in question, Burns' Section 49-2008, the same being IC 1971, 33-15-10-1, reads as follows:

"* * * and [the Reporter of the Supreme and Appellate courts] is further *authorized* to distribute a copy of each of the Indiana Supreme and Indiana Appellate reports without charge to any legal aid society in the state of Indiana organized not for profit and sponsored and approved by a recognized bar association in the community in which such legal aid society maintains its offices * * *" (My emphasis)

This statute does not impose a duty upon the Reporter of the Supreme and Appellate Courts to provide a set of Indiana reports or any individual volumes to any legal aid society. The Legislature has carefully chosen to use the phrase "authorized to provide" the bound volumes. That language is permissive, not mandatory, *Klinck v. Pounds*, 163 N.Y.S. 1008, 1009. Had the Legislature decided to make it a duty of the Reporter to provide free volumes to legal aid societies, it would have used the word "shall."

OPINION 18

Assuming the Reporter in any given year decides to exercise the authority granted by the Indiana Legislature in the Statute set-out above, and furnish volumes of the Indiana Reports to legal aid societies without cost, the Reporter may only do so for the current year, and may not furnish volumes of the Indiana Supreme and Appellate Court Reports for years prior to the existence and recognition of any particular legal aid society. This is so because there is nothing in the statute to indicate a retroactive application of this law:

“Unless otherwise stated, statutes will always be interpreted so as to operate prospectively and not retroactively, unless the language of the legislature is imperative.” *City of Connersville v. Connersville Hydraulic Company* (1882) 86 Ind. 184, and *Board of Com’rs. of Morgan County v. Pritchett* (1882) 85 Ind. 68.

CONCLUSION

It is, therefore, my official opinion that the Reporter of the Indiana Supreme and Appellate Courts is *not* under statutory *mandate* to provide free bound volumes of the Reports of those Courts to legal aid societies in this state. However, the Reporter is authorized, even though not mandated, to furnish free volumes of said Reports *issued after* official recognition of a particular legal aid society which is “organized not for profit” and which is “sponsored and approved by a recognized bar association in the community in which such legal aid society maintains its offices.”