

OPINION NO. 95-022**Syllabus:**

1. In R.C. 3113.33(C), which states that a "[s]helter for victims of domestic violence' or 'shelter' means a facility that provides temporary residential service or facilities to family or household member who are victims of domestic violence," the word "facility" may be construed to mean the organization that provides the residential service or facilities, and is not limited in meaning to a building or structure.
2. A provision of hotel rooms on a temporary basis to victims of domestic violence and to children of victims, instead of using a particular building or structure dedicated to the shelter of such persons, qualifies as "residential service or facilities" within the meaning of R.C. 3113.33(C) and R.C. 3113.36(A)(4).

To: David A. Sams, Madison County Prosecuting Attorney, London, Ohio
By: Betty D. Montgomery, Attorney General, September 22, 1995

You have requested an opinion regarding what constitutes a shelter for domestic violence for purposes of R.C. 3113.33-.39, governing financial assistance to such shelters. Pursuant to R.C. 3113.34, the proceeds of a seventeen dollar marriage license fee and a thirty-two dollar fee collected as costs in annulment, divorce, or dissolution actions are placed in a fund for financial assistance to shelters. These monies are allocated to shelters by boards of county commissioners, R.C. 3113.35, and the Attorney General, R.C. 3113.37. In order to qualify for financial assistance, an entity must be a "shelter," as defined at R.C. 3113.33(C), and satisfy the requirements set out at R.C. 3113.36. *See also* R.C. 3113.38 (establishing priorities for allocating funds if more than one qualified shelter applies).

Your specific request involves the meaning of the terms "facility" and "facilities" as used in R.C. 3113.33(C) and R.C. 3113.36(A)(4). R.C. 3113.33(C) states that a "[s]helter for victims of domestic violence" or "shelter" means a *facility* that provides temporary residential service or *facilities* to family or household members who are victims of domestic violence. (Emphasis added.) R.C. 3113.36 states, in pertinent part:

(A) To qualify for funds under section 3113.35 of the Revised Code, a shelter for victims of domestic violence shall meet all of the following requirements:

(4) Provide residential service or *facilities* for children when accompanied by a parent, guardian, or custodian who is a victim of domestic violence and who is receiving temporary residential service at the shelter. (Emphasis added.)

You relate that there is, in your county, a nonprofit corporation that "provides a crisis line, referrals, advocacy, transportation, and hotel rooms for up to four or five days" to victims of domestic violence. You are concerned that, because this organization utilizes hotel rooms and lacks "one centralized facility to serve victims," it does not meet the statutory criteria established in R.C. 3113.33(C) and R.C. 3113.36(A)(4). In essence, you question whether a shelter, in order to be "a facility" or to provide "residential service or facilities," must be located in and perform its services in a specific building.

The terms "facility" and "facilities" are not defined for purposes of R.C. 3113.33-.39. In other statutory schemes where the word "facility" appears undefined, it has been construed in accord with the context of the particular statute and the common meaning of the word. See *Physicians' Services, Inc. v. City of Willoughby*, 37 Ohio App. 3d 130, 133, 524 N.E.2d 515, 518 (Lake County 1987) ("considering the ordinary definition of the word 'facility' as well as the context of the word in the statute in question, we find that the trial court correctly interpreted R.C. 2907.28"); *Village of Warrensville Heights v. Bowers*, 25 Ohio Op. 2d 101, 105, 188 N.E.2d 85, 90 (C.P. Franklin County 1961) (noting that because the word 'facilities' is not a word of art, it should be accorded its "common everyday meaning as found in any standard or legal dictionary" for purposes of interpreting a statute governing pari mutuel wagering); see also 1980 Op. Att'y Gen. No. 80-021 (interpreting the word "facility" for purposes of R.C. 2907.28 by considering the common definitions of the word in the context of the statute). See generally R.C. 1.42 (providing that in the absence of any "technical or particular meaning," words in a statute "shall be read in context and construed according to the rules of grammar and common usage").

Although the word "facility" can be used narrowly to mean "a building, special room, etc. that facilitates or makes possible some activity," the word is also commonly used in a broader sense to denote "the means by which something can be done." *Webster's New World Dictionary* 501 (2nd college ed. 1984); see also *Random House Dictionary of the English Language* 509 (unabridged ed. 1973) ("something designed built, installed, etc. to serve a specific function affording a convenience or service...something that permits the easier performance of an action, course of conduct, etc."); *Black's Law Dictionary* 591 (6th ed. 1990). When used in the broader sense, the terms "facility" or "facilities" can include animate means of accomplishing an action, such as persons or groups of persons. *Black's Law Dictionary* 591; Op. No. 80-021 at 2-88; see, e.g., *Physicians' Services*, 37 Ohio App. 3d at 132-33, 524 N.E.2d at 517-18 (holding that a private corporation that provided physicians to perform emergency medical care at two county hospitals and which billed patients directly for such care was a "private facility" for purposes of R.C. 2907.28, which requires a municipality to pay the costs incurred by a "private facility" in conducting medical examinations of certain sexual assault victims). Instances in which the General Assembly has expressly defined the term "facility" for a particular statutory purpose demonstrate the same flexibility of meaning. Compare R.C. 3750.01(D) (for purposes of emergency planning statutes, "'[f]acility' means all buildings, equipment, structures, and other stationary items") with prior R.C. 3701.90(E) (for purposes of radiation control statutes, "'[f]acility' means the state, any individual, corporation, partnership, association, trust, estate, public or private institution, group, political subdivision...but does not include the federal government").¹

¹ R.C. 3701.90 was recently been recodified as R.C. 3748.01 and the definition of "facility" deleted from the statute. See Sub. S.B. 19, 121st Gen. A. (1995) (eff. Sept. 8, 1995).

Because the terms "facility" and "facilities" are capable of more than one meaning and are not expressly defined for purposes of R.C. 3113.33-.39, it is necessary to examine the statutory context in which these words appear. I note first that R.C. 3113.33(C) defines a shelter for victims of domestic violence as a "facility." R.C. 3113.35(A) provides that "[a] shelter for victims of domestic violence may apply to the board of county commissioners" for funding. Similarly, pursuant to R.C. 3113.37, "[a] shelter located in this state may apply to the attorney general for funds." R.C. 3113.36 requires that a shelter "be incorporated in this state as a nonprofit corporation." In these statutes, a shelter is an entity that performs specified actions, thus the word shelter cannot be limited in meaning to a building or physical structure. Since, pursuant to R.C. 3113.33(C), "'shelter'...means a facility," clearly in this statutory context the word "facility" may be construed to mean the organization itself, and is not limited in meaning to a building or physical structure. *See generally Physicians' Services*, 37 Ohio App. 3d 130, 524 N.E.2d 515; Op. No. 80-021.

The term "facilities" appears in the statutory descriptions of what a shelter is required to provide. A shelter "provides temporary residential service or facilities" to qualified victims of domestic violence, R.C. 3113.33(C), and "residential service or facilities for children" of qualified victims under specified circumstances, R.C. 3113.36(A)(4). You indicate that the organization involved in your question provides motel rooms on a temporary basis. In this situation, it appears unnecessary to distinguish between the various meanings of the term "facilities." A hotel room can be characterized as "a building, special room, etc. that facilitates or makes possible" the sheltering of victims of domestic violence and their children, or as "the means by which [the sheltering of victims] can be done." Either one of these characterizations satisfies a common definition of "facilities." *See Webster's New World Dictionary* 501. It is also possible to characterize providing hotel rooms as a "temporary residential service," thereby avoiding altogether the issue of whether the hotel rooms qualify as facilities. Regardless of which interpretation I utilize, the provision of hotel rooms on a temporary basis to victims of domestic violence and to children of victims, instead of use of a particular building or structure dedicated to the shelter of such persons, qualifies as the provision of "residential service or facilities" within the meaning of R.C. 3113.33(C) and R.C. 3113.36(A)(4).

It is therefore, my opinion, and you are hereby advised that:

1. In R.C. 3113.33(C), which states that a "'[s]helter for victims of domestic violence' or 'shelter' means a facility that provides temporary residential service or facilities to family or household member who are victims of domestic violence," the word "facility" may be construed to mean the organization that provides the residential service or facilities, and is not limited in meaning to a building or structure.
2. The provision of hotel rooms on a temporary basis to victims of domestic violence and to children of victims, instead of use of a particular building or structure dedicated to the shelter of such persons, qualifies as the provision of "residential service or facilities" within the meaning of R.C. 3113.33(C) and R.C. 3113.36(A)(4).

Nonetheless, the prior definition demonstrates that the General Assembly recognizes the differing meanings of the word facility.