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# The State of South Carolina



## Office of the Attorney General

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January 31, 1992

The Honorable L. Mendel Rivers, Jr.  
Judge, The Family Court of  
The Ninth Judicial Circuit  
P. O. Box 934  
Charleston, South Carolina 29402

Dear Judge Rivers:

In a letter to this Office you questioned whether a law enforcement officer can arrest or detain a juvenile where the officer has probable cause to believe that the juvenile has committed an offense without a pick-up order or other formal arrest warrant. If some type formal arrest document is necessary, you asked whether such must be a pick-up order issued by a family court judge or is some other arrest warrant or document permissible?

A prior opinion of this Office dated February 19, 1988, a copy of which is enclosed, stated

... law enforcement has the authority to take in custody a minor for the commission of a misdemeanor not committed in his presence without an arrest warrant only when the facts or circumstances give an officer probable cause to believe that the crime was freshly committed. Any other circumstance would require an arrest warrant when the act was not committed in the officer's presence.

Another prior opinion, 1980 Op. Atty. Gen. No. 80-102, a copy of which is also enclosed, had reached a similar conclusion. The 1988 opinion noted that although the courts had not directly addressed the issue there is the trend of extending juveniles the same rights as criminal defendants as

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to an arrest. Therefore, some type formal arrest document would be necessary for the arrest of a juvenile in the circumstances described.

As to the type arrest document, such would more properly be a matter for resolution by statute or court order. It would not be a matter for resolution by this Office. Such clarification by statute or court order would assure uniformity in procedures regarding juveniles and avoid ambiguity. In association with such you may wish to contact the State Court Administration office.

With kind regards, I am

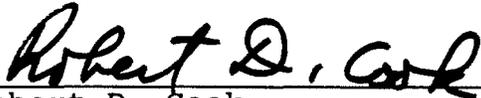
Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR/an  
Enclosures

REVIEWED AND APPROVED BY:



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