

# The State of South Carolina



## Office of the Attorney General

*Opinion No. 87-92*  
*pg 218*

**T. TRAVIS MEDLOCK**  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-734-3660

November 23, 1987

The Honorable Joseph P. Mizzell, Jr.  
Solicitor, First Judicial Circuit  
Post Office Box 1525  
Orangeburg, South Carolina 29115

Re: Juvenile Delinquency Pre-Adjudicatory  
Detention

Dear Solicitor Mizzell:

You have requested an opinion from this office as to whether or not a law enforcement officer can book a juvenile into any county jail or regional complex without the juvenile first having been screened by an agent of the Department of Youth Services. I have reviewed the prior opinions of this office in the area of juvenile delinquency and have determined that an opinion on this has not previously been issued. In a previous opinion of this office, we had stated that a law enforcement agency has the authority to release the juvenile at any time prior to a detention hearing in Family Court. 1983 OP.ATTY.GEN. No. 83-72, p. 113. That opinion relied upon Section 20-7-600, CODE OF LAWS (1976). A copy of that opinion is attached for your review but does not necessarily address the issue of detention as opposed to release.

It is the opinion of this office that the law enforcement officer has the authority to place a juvenile taken into custody for allegedly violating any law of this State if certain conditions are met. Pursuant to Section 20-7-600, CODE OF LAWS (1976), upon taking the juvenile into custody, the officer shall notify the parent, guardian, or custodian

Honorable Joseph P. Mizzell, Jr.  
Page 2  
November 23, 1987

of the child as soon as possible. Also, the officer taking the child into custody shall immediately notify the authorized representative of the Department of Youth Services, who shall review the facts and the officer's report or petition and any other relevant facts and determine if there is a need for the detention of the child. The officer's written report shall be furnished to the authorized representative of the Department of Youth Services within twenty-four hours from the time the child was taken into custody and such report shall state:

- (1) The facts of the offense; and
- (2) The reason why the child was not released to the parent.

Unless detention is necessary for the protection of the community or to serve the best interest of the child, according to Section 20-7-600, the child shall be released by the authorized representative of the Department of Youth Services to the custody of his parent or other responsible adult upon their written promise to bring the child to the court at the stated time or at such time as the court may direct. This statute has a proviso, however, if the offense for which the child was taken into custody would be a felony, the child may only be released by the Department of Youth Services with the consent of the adult who took the child into custody. Further, pursuant to Rule 35, Rules of Practice in the Family Courts, when any child is taken into custody and not released to a parent, guardian, or custodian, the custodial officer shall notify the Family Court of such fact as soon as possible but no later than twenty-four hours after detention. It is our opinion that it is implicit in the statutory language that a law enforcement officer has the authority to detain a juvenile prior to being screened by an agent of the Department of Youth Services.

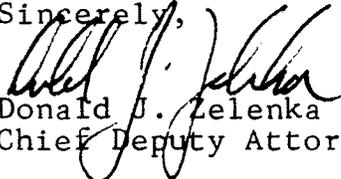
It is important to note that Section 20-7-600 does restrict detentions of juveniles or the conditions of the detention in certain respects. First, it should be noted that a child who is taken into custody (arrested) because of a violation of a law which would not be a criminal offense under the laws of this State if committed by an adult (status offenses) shall not be placed in a detention facility.

Honorable Joseph P. Mizzell, Jr.  
Page 3  
November 23, 1987

Further, no child shall be transported in any police vehicle which also contains adults under arrest. Also, no child shall at any time be placed in a jail or other place of detention for adults, but shall be placed in a room or ward entirely separated from adults. Section 20-7-600 [see CODE OF LAWS of 1976, as amended (1981)].

I trust this has addressed your inquiry. If you have any questions about this matter, please feel free to contact me.

Sincerely,

  
Donald J. Zelenka  
Chief Deputy Attorney General

bbb  
enclosures (Opinion No. 83-72 and  
Section 20-7-600, CODE OF LAWS (1976)  
cc: Larry Vanderbilt, Esquire

APPROVED BY:

  
Robert D. Cook  
Executive Assistant for Opinions