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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 15, 2002

Ms. Michelle S. Peahuff
Victim Advocate, Union County
414 South Pinckney Street
Union, South Carolina 29379

Re: "Household Member" Pursuant to S.C. Code Ann. §16-25-10

Dear Ms. Peahuff:

By letter to this Office, you have requested an opinion relating to the above-referenced Code Section. Specifically, you ask "... whether or not 2 brothers fighting in the home is CDV or Assault?"

The general prohibition of criminal domestic violence is found in S.C. Code Ann. §16-25-20 which provides that "[i]t is unlawful to: (1) cause physical harm or injury to a person's own household member, (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril." Section 16-25-10 provides that "... 'household member' means spouses, former spouses, parents and children, persons related by consanguinity or affinity within the second degree, persons who have a child in common, and a male and female who are cohabiting or formerly have cohabited (emphasis added)."

Consanguinity is the relationship of persons of the same blood or origin. See Black's Law Dictionary (7th ed. 1999). As this Office has previously recognized, a "[r]elationship 'within the second degree' refers to husband and wife, parent and child, grandparent and grandchild, and brother and sister." See OP. ATTY. GEN. DATED MARCH 1, 1963. Therefore, the act of a person causing physical harm or injury (or an attempt to commit such an act) to his or her sibling would qualify as a prohibited act pursuant to Section 16-25-20. This position was recently stated by our Supreme Court in Arthurs ex rel. Estate of Munn v. Aiken County, 551 S.E.2d 579, 346 S.C. 97 (2001). While not directly related to its holding, the Court in Arthurs noted that a victim's brother was within the second degree of consanguinity under Section 16-25-10. 551 S.E.2d at 584.

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This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'DAVANT', written over the word 'Sincerely,'.

David K. Avant
Assistant Attorney General

DKA/an