

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

January 13, 1992

The Honorable James L. Solomon, Jr.
Commissioner, South Carolina Department
of Social Services
P. O. Box 1520
Columbia, South Carolina 29202-1520

Dear Commissioner Solomon:

You have asked whether the November 20, 1981 opinion which you attached to your opinion request remains a valid, published opinion. The November 20, 1981 opinion about which you inquire is a formal opinion of this Office, having been issued during the prior administration of Attorney General McLeod.

As to the validity of the opinion, it is the policy of this Office not to supersede or invalidate a prior opinion unless the opinion is clearly erroneous or unless there has been a change in the law. A review of the opinion, applicable statutes, and relevant court decisions leads me to conclude that the opinion is neither clearly erroneous nor invalid due to an intervening change in the law. 1/

Of course, as indicated in the earlier opinion, the decision whether to prosecute a particular individual, whether a specific prosecution is warranted or has a sound basis as well as the application of the particular facts is a matter solely within prosecutorial discretion and jurisdiction and is not within the province of an opinion of this Office.

1/ In fact, the decision of S.C.D.S.S. v. Father & Mother, 294 S.C. 518, 366 S.E.2d 40 (1988), rendered subsequent to the opinion under review appears to indicate that acts of child abuse may not be protected under the First Amendment guarantee of religious liberty.


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I hope this provides the clarification you seek.

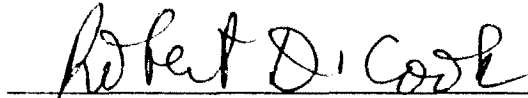
Sincerely,



Salley W. Elliott
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions