

1981 WL 158052 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 20, 1981

*1 Honorable Harriet H. Keyserling
Representative
District No. 124—Beaufort County
Box 1108
Beaufort, South Carolina 29902

Dear Representative Keyserling:

You have recently written this office requesting an opinion as to whether or not the intentional scarring of little children as a form of religious, cultural or tribal ritual would be deemed child abuse the provisions of the Child Protection Act. That Act defines an abused or neglected child in Section 20-7-490 of the new Children's Code as a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of his parent, guardian, or other person responsible for his welfare.

Among the primary means of harming a child under this Act is the infliction or allowance of infliction upon the child of physical or mental injury. 'Physical Injury' is defined as death, disfigurement or impairment of any bodily organ. 'Mental Injury' means a substantial impairment of the intellectual, psychological or emotional capacity of a child as evidenced by inhumane, or unconscionable acts and conduct.

Therefore, assuming that any such scarring of children is inflicted by a parent, guardian or other person responsible for that child's welfare, it could most certainly be considered child abuse under the statute. Furthermore, such acts could be considered aggravated assault justifying criminal sanctions against any person who commits them. Of course, these matters must be assessed on a case-by-case basis, taking into account such factors as the extent of injuries inflicted and the existence and extent of lasting damage to the child.

It is the opinion of this office that sufficient evidence of intentional permanent scarring of children could justify an action in Family Court, pursuant to the Child Protection Act, and/or in the General Sessions Court Pursuant to Criminal indictment. Such matters are within the discretion of the Solicitor.

I trust that this information will be of assistance. If I can be of further service to you in this or any other matter, please do not hesitate to contact me.

Respectfully,

Brian P. Gibbes
Senior Assistant Attorney General
Criminal Division

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