

1980 S.C. Op. Atty. Gen. 125 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-75, 1980 WL 81957

Office of the Attorney General

State of South Carolina

Opinion No. 80-75

June 30, 1980

***1 SUBJECTS: Courts; Vital Statistics**

The Family Courts of this State are vested with exclusive jurisdiction over matters relating to the establishment and amendment of birth records and the changing of names.

TO: Jacquelyn S. Dickman

Staff Counsel

South Carolina Department of Health and Environmental Control

QUESTION PRESENTED:

Do the Family Courts of this State have exclusive jurisdiction over the establishment and amendment of birth records and the changing of names?

AUTHORITIES:

Code of Laws of South Carolina (1976); cum.supp. 1979: Sections 14-21-415; 14-21-1050; 14-21-1060; 15-49-10; 44-63-100; 44-63-160.

[City of Spartanburg v. Blalock](#), 223 S.C. 252, 75 S.E.2d 361 (1953).

[Feldman v. S.C. Tax Commission](#), 203 S.C. 49, 26 S.E.2d 22 (1943).

[McCallum v. Snipes](#), 213 S.C. 254, 49 S.E.2d 12 (1948).

[State v. Harris](#), 268 S.C. 117, 232 S.E.2d 231 (1977).

[State v. Harrelson](#), 211 S.C. 11, 43 S.E.2d 593 (1947).

DISCUSSION:

You have asked whether the provisions of Article II, Section 2 of Act No. 690 of 1976, now codified as § 14-21-415 of the 1976 Code of Laws of South Carolina, as amended, vest exclusive jurisdiction in the Family Courts of this State over matters relating to the changing of names, and the establishment and amendment of birth records. It is our opinion that it does.

In construing a statute, all rules are subservient to the one which requires that legislative intent prevail. [State v. Harris](#), 268 S.C. 117, 232 S.E.2d 231 (1977). The primary rule of construction of statutes is to ascertain and declare the intention of the legislature, and to carry such intention into effect. Under the principle that the last expression of legislative will is law where conflicting provisions are found in different statutes, the last in point of time or order of arrangement prevails. [Feldman v. S.C. Tax Commission](#), 203 S.C. 49, 26 S.E.2d (1943). However, decisions of the Supreme Court of South Carolina have long

adhered to the doctrine that repeal of previously enacted statutes by subsequently enacted statutes relating to the same general subject is not favored. See, e.g., [City of Spartanburg v. Blalock](#), 223 S.C. 252, 75 S.E.2d 361 (1953); [McCallum v. Snipes](#), 213 S.C. 254, 49 S.C.2d 12 (1948). Moreover, our Court has recognized and stated that statutes of a specific nature are not to be construed as repealed in whole or in part by a later general statute unless there is a direct reference to the former statute or unless the intent of the legislature to do so is explicitly implied therein. [State v. Harrelson](#), 211 S.C. 11, 43 S.E.2d 593 (1947).

In 1968 the General Assembly conferred upon the Family Courts' concurrent jurisdiction with the Circuit Courts in actions concerning, *inter alia*, changing names, whether the same be in connection with divorce or apart therefrom, and the correction of birth records. Section 14–21–1060 of the 1976 Code. Section 15–49–10 of the 1976 Code confers jurisdiction over changes of names upon the Circuit Courts. Section 44–63–100 prescribes the procedure for establishing a birth certificate in the jurisdiction of the Court of Common Pleas.

*2 In 1976 the General Assembly passed Act No. 690 of 1976 in response to the newly-enacted mandate of Article V of the S.C. Constitution (1895), as amended, to vest the judicial power of the State in a unified judicial system. As a first step in implementing that unified courts system the General Assembly essentially determined that a Family Courts System should be established and Family Court jurisdiction devolved upon that system effective July 1, 1977. Article I, Section 1 of Act No. 690 of 1976. In that effort the General Assembly expressly provided that such jurisdiction 'shall be exclusive to all other courts including the circuit court,' with the exception of the offenses of murder and rape committed by persons under the jurisdiction of the Family Court which are transferable to the Circuit Court as provided in § 14–21–510. Article II, Section 2 of Act No. 690 of 1976, codified as Section 14–21–415 of the 1976 Code, as amended. Therefore, it appears by explicit implication that since July 1, 1977, the Family Courts have had exclusive jurisdiction vested in them over matters concerning the establishment and amendment of birth records and the changing of names.

CONCLUSION:

Therefore it is our opinion that pursuant to § 14–21–415 of the 1976 Code, as amended, the Family Courts of this State have exclusive jurisdiction over matters regarding the establishment and amendment of birth records and the changing of names, since July 1, 1977.

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