

1977 S.C. Op. Atty. Gen. 184 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-252, 1977 WL 24593

Office of the Attorney General

State of South Carolina

Opinion No. 77-252

August 11, 1977

\*1 TO: Purvis W. Collins

Director

South Carolina Retirement System

### QUESTION

Does service as a family court judge prior to July 1, 1977, count toward the ten-year waiting period established by Act No. 690 of 1976 (§ 14–21–495, 1976 Code of Laws (unofficial 1977 supplement)) for purposes of eligibility to participate in the retirement system for justices of the Supreme Court and judges of the circuit courts?

### STATUTES

Act No. 690 of 1976, Article VIII, Section 5 (§ 14–21–495, 1976 Code of Laws, unofficial 1977 supplement); §§ 14–21–330 and 9–7–10 et seq., 1976 Code of Laws.

### DISCUSSION

Act No. 690 of 1976, Article VIII, Section 5 provides in part as follows:

All family court judges shall participate in the State Retirement System under a formula to be determined by rule and regulation of the State Budget and Control Board for a period of ten years from the date of their initial election as family court judges. Upon the completion of this ten-year period, such family court judges shall become part of the retirement system for Supreme Court justices and circuit court judges as provided in Chapter 5 of Title 61 of the 1962 Code . . .

This section clearly intends to create a ten-year waiting period for eligibility for the judges' retirement system (§§ 9–7–10 et seq., 1976 Code). The question is whether service as a family court judge prior to the effective date of the Act (July 1, 1977) may count toward the ten-year period. It was apparently the intention of the legislature that such services should not be so counted, because the Act provides that the period shall run from 'the date of . . . initial election.' Since family court judges were formerly appointed (§ 14–21–330), the plain language of the Act in specifying the election of the judges can only refer to their election by the General Assembly.

### CONCLUSION

It is therefore the opinion of this Office that the ten-year waiting period for eligibility of family court judges to participate in the judges' retirement system runs from the date of the judges' initial election pursuant to Act No. 690 of 1976.

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