

1977 S.C. Op. Atty. Gen. 221 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-290, 1977 WL 24630

Office of the Attorney General

State of South Carolina

Opinion No. 77-290

September 15, 1977

***1 RE: Exclusive or Concurrent Jurisdiction of the Family Courts as Intended by Act 690 of 1976.**

Mr. Joseph M. McCulloch, Jr.
South Carolina Court Administration
Post Office Box 11788
Columbia, SC 29211

Dear Mr. McCulloch:

Title 14, Article 9, Sections 14–21–1010 through 1060, of the South Carolina Code of Laws (1976) establishes concurrent jurisdiction in the Family Courts and the Courts of Common Pleas and Circuit Courts in matters concerning divorces, adoption, support, etc. This chapter was brought forward from the 1962 Code.

As stated in a June 28, 1977, opinion of this office:

In 1976 the South Carolina Legislature passed Act No. 690, providing for a uniform judicial system. As stated in Section 1 of the Act, Article V of the Constitution mandates a unified judicial system. The stated purpose of the Act is to comply with the mandate of the constitution by establishing a unified court system.

Article II, Section 2 of Act 690 states that:

Except as otherwise provided by this Act, the family court shall have the same authority and jurisdiction as that contained in Act 1195 of 1968; which jurisdiction shall be exclusive to all other courts including the circuit court . . .

This section of Act 690 explicitly lists the exception to exclusive jurisdiction as those offenses of murder and rape transferable to the circuit court under Act 1195 of 1968. As the mandate and purpose of Act No. 690 of 1976 is to establish a unified judicial system by establishing a system of family courts with exclusive jurisdiction, any concurrent jurisdiction such as that in Title 14, Article 9 of the Code would be contrary to the purpose of Act 690. The Legislature specifically included that area of jurisdiction which could be concurrent with the circuit courts. Those actions arising under Title 14, Article 9 were not included.

2 Sutherland on Statutory Construction, Section 34.03 at 22 (1973), states that old laws may be impliedly repealed by new enactments when there is sufficient conflict. Act No. 690 of 1976 is a subsequent enactment of the Legislature; as such, it may be construed to impliedly repeal the concurrent jurisdiction portion of Title 14, Article 9, of the Code of Laws as a former law which conflicts with the new intent of the Legislature.

Therefore, because of the requirement for a unified judicial system in this state, and the fact that Title 14, Article 9 was not included in the Act 690 exceptions to exclusive jurisdiction; Act 690 of 1976 mandates that the Family Courts shall have exclusive jurisdiction in those actions arising under Title 14, Article 9 of the Code.

Sincerely,

A. Camden Lewis
Assistant Attorney General

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