

1977 WL 37420 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 9, 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:

Article 9, Title 14 of the South Carolina Code of Laws (1976) establishes concurrent jurisdiction in the Courts of Common Pleas and the Family Courts in actions under the Uniform Reciprocal Enforcement of Support of Dependents Act. This Section 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 . . .

The section explicitly lists the exception to exclusive jurisdiction as those offenses of murder and rape transferable to the circuit courts 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 it felt could be transferred from the family courts to other courts. Actions under the Uniform Reciprocal Enforcement of Support of Dependents Act were not included in the exception.

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Legislature. 2 Sutherland on Statutory Construction, Section 34.03 at 22 (1973), states that old laws may be impliedly repealed by new enactments when there is a sufficient conflict.

Therefore, because of the requirement for a unified judicial system in this state, and the fact that Title 14, Article 9 actions were not included in the exceptions to exclusive jurisdiction; Act No. 690 of 1976 mandates that the Family Courts shall have exclusive jurisdiction in actions under the Uniform Reciprocal Enforcement of Support of Dependents Act.

Sincerely,

A. Camden Lewis
Assistant Attorney General

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