

1978 WL 34753 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 8, 1978

\*1 Honorable S. Norwood Gasque  
Chief Judge  
Family Court  
Fourth Judicial Circuit  
P. O. Box 1022  
Dillon, South Carolina 29536

Dear Judge Gasque:

You have recently asked the opinion of this Office as to whether you should permit the mother of a fifteen (15) year old girl to sign a complaint in Family Court against a seventeen (17) year old girl who has, among other things, coaxed the fifteen (15) year old away from school or whether the magistrate should issue a warrant under [Section 16-17-490 of the 1976 South Carolina Code](#) of Laws charging the seventeen (17) year old with contributing to the delinquency of a minor.

[Section 16-17-490](#) states in pertinent part:

‘It shall be unlawful for any person over 18 years of age to knowingly and wilfully encourage, aid or cause or to do any act which shall cause or influence a minor: . . .’. (Emphasis added).

The section specifically requires that the contributor be over eighteen (18) years of age to be charged under this provision.

[Section 14-21-510 of the 1976 South Carolina Code](#) of Laws, the jurisdiction section of the Family Court Act, gives the Family Court exclusive original jurisdiction:

‘Concerning any child living or found within the geographical limits of its jurisdiction:’

Section 14-21-20 of the Family Court Act defines ‘child’ as a person less than seventeen (17) years of age where the child is dealt with as a juvenile delinquent. (Emphasis added).

Based on a simple reading of these statutes, it is clear that the Family Court does not have jurisdiction over the situation as presented in your letter because it does not have jurisdiction over a child who has already attained the age of seventeen (17) and is being dealt with as a juvenile delinquent. Likewise, [Section 16-17-490](#) making it a crime to contribute to the delinquency of a minor does not apply to the situation described in your letter because the contributor has not yet reached the age of eighteen (18).

Therefore, it is the opinion of this Office that the Family Court does not have jurisdiction over this matter. Additionally, the magistrate cannot issue an arrest warrant under [Section 16-17-490](#) for a seventeen (17) year old. The magistrate may, however, charge the seventeen (17) year old under Section 16-17-510 for encouraging the fifteen (15) year old from attendance in school or under any other available statute which does not require the offender to be over eighteen (18) years of age.

Sincerely,

Betty J. Willoughby

Staff Attorney

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