

1975 WL 28841 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1975

***1 In Re: H-2309**

The Honorable James B. Edwards
Governor
Columbia, South Carolina

Dear Governor Edwards:

You have requested my opinion as to the validity of H-2309 which provides for the establishment of the Family Court of Dorchester County 'in accordance with the Provisions of Act 1195 of 1968 (The Family Court Act).'

It is my opinion that this bill would establish an unconstitutional court.

The provisions of Act No. 1195 of 1968 constitute a general law regarding Family Courts and, in my opinion, can only be implemented by general law. This apparently can be done by action of the counties without further legislative action, except in some counties for the provision of funds by the legislature. H-2309 is not a general law and, for that reason, I feel that it is not valid.

I must add that the conclusions which I have expressed are not entirely free from doubt. I have been given assurances that should the bill before you become law, a declaratory action will be instituted to determine its validity. If this is not otherwise done, I will undertake to do so as Attorney General. I suggest that you give consideration to allowing the bill to become law, as a number of courts in similar circumstances have been in existence for some period of time and the validity of all such courts should be determined conclusively in a court of law. A test of the vehicle of H-2309 would afford an opportunity for such adjudication.

Very truly yours,

Daniel R. McLeod
Attorney General

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