

1974 WL 27805 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 5, 1974

\*1 Mr. Autie W. Smoak  
The Family Court of Orangeburg County  
Orangeburg County Courthouse  
Orangeburg, South Carolina 29115

Dear Mr. Smoak:

You have inquired of this office as to whether the Family Court of Orangeburg County must report to the state Highway Department the traffic offenses of juveniles over which it has jurisdiction. The problem arises because of the conflict between Section 46-180 (1962 Code of Laws) and Section 15-1095.20 (1962) Code, as amended). Section 46-180 reads: Every court having jurisdiction over offenses committed under this chapter or other State laws or municipal ordinances regulating the operation of motor vehicles on highways shall forward to the Department a record of the conviction of any person in such court for a violation of such laws other than regulations governing standing or parking where a matter of safety is not involved.

Section 15-1095.20 reads in part:

No adjudication by the Court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil liabilities ordinarily resulting from conviction, . . . (Emphasis added.)

1. It is generally held that if a statute is clear and unambiguous in its terms and there is no room for construction, the terms of the statute must be given their literal meaning. [Southeastern Fire Ins. Co. v. South Carolina Tax Comm.](#), 253 S.C. 407, 171 S.E.2d 355 (1969); [Jones v. South Carolina Highway Dept.](#), 247 S.C. 132, 146 S.E.2d 166 (1966). Following this literal scheme of construction, it seems that the preclusion of the term 'conviction,' pursuant to Section 15-1095.20, would prevent the 'adjudications' provided for from being encompassed by Section 46-180.

2. The purpose behind the mandatory reporting system is the effective enforcement of the traffic laws in reference to the suspension of drivers' licenses. [State v. Pearson](#), 223 S.C. 377, 76 S.E.2d 151 (1953). The suspension of a driver's license upon the receiving of court records is not a part of the criminal penalty but an action civil in nature. [Parker v. State Highway Dept.](#), 224 S.C. 263, 78 S.E.2d 382 (1953); [Brewer v. South Carolina State Highway Dept.](#), 261 S.C. 52, 198 S.E.2d 256 (1973).

The purpose of reporting offenses to the Department is the enforcement of the traffic laws and the ultimate revocation of a driver's license if required, [Pearson](#), *supra*. Revocation of a license is necessarily a civil liability resulting from a criminal conviction. It seems apparent that the purpose of Section 15-1095.20 would be circumvented were the records of the traffic offenses, or more properly the adjudications, reported to the Department. This would effectively impose a civil liability upon the juvenile in contradiction to the statute.

3. The Family Court act was promulgated by 1968 Acts 2718. The original enactment of Section 46-180 was by 1930 Acts 1057, amended 1959 Acts 421. It is said in 2A SUTHERLAND [statutory Construction](#) § 51.02:

\*2 In terms of legislative intent, it is assumed that whenever the legislature enacts a provision it has in mind previous statutes relating to the same subject matter, wherefore it is held that in the absence of any express repeal or amendment

therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together . . . . But if there is an irreconcilable conflict between the new provision and the prior statutes relating to the same subject matter, the new provision will control as it is the later expression of the legislature . . . . Thus it has been said that ‘Where a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different intention existed.’ (Citing: [Western States Newspapers, Inc. v. Gehringer](#), 203 Cal.App.2d 793, 22 Cal.Rptr. 144 (1962)).

It would seem that the lack of any provision regarding the reporting of traffic offenses when considered with the purpose and language of Section 15-1095.20, would evidence a legislative intention to leave these records with the Family Court. This would fulfill the generally accepted purpose of juvenile courts, mainly, crime prevention and juvenile rehabilitation as opposed to conviction or punishment for crime. [State v. Cagle](#), 111 S.C. 548, 96 S.E. 291 (1918); [Kirecofe v. Commonwealth](#), 198 Va. 833, 97 S.E.2d 14 (1957); 47 M.JUR.2d *Juvenile Courts, etc.*, § 55; 43 C.J.S. ??, § 97.

Because of the foregoing reasons, it is the opinion of this Office that there is no affirmative duty on the part of the Orangeburg Family Court to transfer records of the adjudications of juvenile traffic offenders to the State Highway Department.

Yours truly,

Cameron B. Littlejohn, Jr.  
Law Clerk

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