

1974 WL 27535 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 12, 1974

**\*1 Re: James DeVore—Age 2 Allendale County Neglected child**

Dr. R. Archie Ellis  
Commissioner  
S. C. Department of Social Services  
P. O. Box 1520  
Columbia, South Carolina 29202

Dear Dr. Ellis:

I have reviewed all of the documents concerning James DeVore and have concluded that the Family Court of Allendale, Barnwell and Bamberg District does have jurisdiction over James DeVore and may properly receive a petition concerning his medical needs and dispose of the case under the authority hereinafter cited.

The Family Court of the Allendale, Barnwell and Bamberg District was established by Act No. 977 of the 1974 Acts, approved April 14, 1974, and is vested with the powers, duties and jurisdiction within Allendale, Barnwell and Bamberg Counties as prescribed in Act No. 1195 of 1968 [Family Court Act of 1968] now codified as Sections 15-1095 thru 15-1095.52, S. C. Code (1962), 1973 Cum. Supp.

James DeVore is in my opinion a neglected child as to medical needs and exclusive original jurisdiction is conferred by Section 15-1095.9(a)(1)(a) which provides:

‘(A) Except as otherwise provided herein, the court shall have exclusive original jurisdiction and shall be the sole court for initiating action:

(1) Concerning any child living or found within the geographical limits of its jurisdiction:

(a) Who is neglected as to proper or necessary support or education as required by law, or as to medical, psychiatric, psychological or other care necessary to his well-being, or who is abandoned by his parent or other custodian;’ (Emphasis added).

The Allendale County Department of Social Services through its Director has a right to file a petition pursuant to Section 15-1095.13, the director being ‘. . . an official of a child welfare board, any public official charged by law with the care of the poor, the recognized agents of any duly authorized agency . . . any person having knowledge or information of a nature which convinces such person that a child is neglected . . . may institute a proceeding respecting such child.’

The Court pursuant to Section 15-1095.14 has the authority ‘. . . when it is considered necessary, cause a complete physical examination to be made of the child by a competent physician . . .’

At the dispositional stage the Court has the authority pursuant to Section 15-1095.20(c) and (d) to:

'(c) Cause any child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist or psychologist and for such purpose may place the child in a hospital or other suitable facility.

(d) Order such other care and treatment as the court may deem best, except as herein otherwise provided. In support of any order or decree, the court may require the parents or other persons having custody of the child, or any other person who has been found by the court to be encouraging, causing or contributing to the acts or conditions which bring the child within the purview of this chapter, to do or omit to do any acts required or forbidden by law, when the judge deems such requirement necessary for the welfare of the child. In case of failure to comply with such requirement, the court may proceed against such persons for contempt of court.' (Emphasis added).

\*2 Additionally the court pursuant to Section 15-1095.22 has the authority to provide for the payment of the child's care and treatment.

In the opinion of this office the Family Court of Allendale, Barnwell and Bamberg has jurisdiction over the child, James DeVore, age 2, it having been medically determined that this child is in need of medical care and treatment for the correction of 'club-feet', and may under the authority cited enter an order to so provide.

Very truly yours,

Raymond G. Halford  
Assistant Attorney General

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