

1973 S.C. Op. Atty. Gen. 268 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3599, 1973 WL 21054

Office of the Attorney General

State of South Carolina

Opinion No. 3599

August 14, 1973

\*1 The Honorable Irene Krugman Rudnick  
Member  
House of Representatives  
Aiken County  
Box 544  
Aiken, South Carolina 29801

Dear Mrs. Rudnick:

Thank you for your letter of August 7, 1973, requesting an opinion on the legality of a statute that would make sterilization mandatory for a woman on welfare who has given birth to three children during the time she is receiving public assistance.

I have no reservation whatsoever in stating that such a statute would in my opinion be unconstitutional upon the grounds that it would deprive the individual of due process of law as well as constituting an unlawful invasion of the right of privacy. I am aware of no precise decision of the U.S. Supreme Court touching upon this issue but a number of decisions on somewhat related circumstances clearly support this view. See, [Griswold v. Connecticut](#) 381 U.S. 479, 14 L.Ed. 2d 510, 85 S.Ct. 1678 (1965); [Eisenstadt v. Baird](#), 405 U.S. 438, 31 L.Ed. 2d 349, 92 S.Ct. 1029 (1972).

I recognize that there may be instances in which the State may restrict the right to bear children, such as instances in which it is medically and scientifically shown that pro-creation would transmit hereditary genetic characteristics resulting in inherently defective humans. But the right of persons on welfare to bear children does not come within such categories.

I am of the opinion that such a statute would be unconstitutional for the reasons stated.

Very truly yours,

Daniel R. McLeod  
Attorney General

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