

1973 WL 26999 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 12, 1973

\*1 Mr. John R. Kinchen  
Group Home Consultant  
South Carolina Department of Youth Services  
Post Office Box 3188  
Columbia, South Carolina 29230

Dear Mr. Kinchen:

This is in reference to your inquiry requesting an opinion as to the legality of a Parental Consent Agreement for the voluntary admission of children by parents to The Department of Juvenile Corrections.

The Department was created by The Correction of Juveniles Act, Act No. 386, Acts of 1969, (§ 55-50 et. seq. of The 1962 S. C. Code of Laws, as amended), and a child may be committed to The Department only under the terms of the commitment provisions provided by the Act.

Section 55-50.30 of The 1962 S. C. Code of Laws, as amended, is the enabling legislation which sets forth the commitment procedures for children under the age of seventeen to The Board of Juvenile Corrections and Board of Juvenile Placement and Aftercare. This statutory provision of The Correction of Juveniles Act provides, in part, that:

A child, : : , may be committed to the custody of The State Board of Juvenile Corrections only by order of a circuit, county, probate or family court judge . . .

It is clear from the language of the Act and the above-quoted provision thereof that duties imposed upon The Board of Juvenile Corrections relating to the commitment of children to The Department of Juvenile Corrections are ministerial and mandatory, not discretionary. Thus, a child may be committed to The Department only by the order or a Judge of a circuit, county, probate or family court.

For the foregoing reasons, it is the opinion of this office that a child could not be legally committed to The Department of Juvenile Corrections by a Parental Consent Agreement, and such agreement would be invalid.

Very truly yours,

Donald V. Myers  
Assistant Attorney General

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