

1983 WL 182025 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 17, 1983

*1 Honorable Martha D. Newton
Probate Judge for Anderson County
P. O. Box 4046
Anderson, SC 29622

Dear Judge Newton:

In a telephone conversation of October 17, 1983, you requested an opinion of this Office as to whether a marriage license should be issued to members of the same sex.

I have enclosed a copy of an August 12, 1976, opinion of this Office concerning the validity of a marriage between members of the same sex. In addition, [Section 20-1-230, Code of Laws of South Carolina \(1976\)](#), reads:

Upon (a) the filing of the application required under the provisions of § 20-1-220, (b) the lapse of at least twenty-four hours thereafter, (c) the payment of a fee of one dollar and (d) the filing of a statement, under oath or affirmation, to the effect that the persons seeking the contract of matrimony are legally entitled to marry, together with the full names of the persons, their ages and places of residence, the judge of probate or clerk of court with whom the application was filed shall issue a license for the marriage of such person.

In view of this opinion and [Section 20-1-230](#), it is the opinion of this Office that, until a Court of competent jurisdiction has ruled otherwise, a marriage license should not be issued to members of the same sex.

We are advised that one of the parties seeking the marriage license is undergoing surgery to change his sex from male to female. If medical authorities certify that the person is a female, it would appear to be proper to issue a marriage license.

Please accept my regards.

Very truly yours,

Ruby E. Brice
Assistant Attorney General

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