

1979 WL 42877 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1979

*1 The Honorable W.R. Douglas
Judge of Probate
Office of Probate Judge of Cherokee County
Cherokee County Courthouse
Gaffney, South Carolina 29340

Dear Judge Douglas:

You have inquired of this Office whether or not you have the authority to deny marriage licenses based upon realization that an applicant is currently on probation in the Family Court. It appears that you do not.

[Sections 20-1-210](#) through [20-1-230 of the South Carolina-Code](#) of Laws, 1976, delineate the authority of the Probate Court to issue marriage licenses, as well as the requirements for such licenses. It is directed therein that upon the fulfillments of the specified requirements, the Probate Court 'shall issue a license for the marriage of such persons.' (Emphasis added). There appear to be no cases in South Carolina concerning discretion by the Probate Judge in determining if or to whom a marriage license should be issued.

The particular statutes cited appear to involve no discretion and vest no authority in the Probate Judge to examine the applicants for a marriage license, except to the extent of determining if the statutory requirements are met. Thus, it is the opinion of this Office that once the statutory requirements are met, the Probate Judge is required to issue the license, notwithstanding the fact that the applicant may currently be on probation in the Family Court.

If this Office can offer further assistance, please feel free to call on us.

I remain,
Very truly yours,

Edwin E. Evans
Assistant Attorney General

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